

# PRESIDENTIAL RULINGS

## **ROBERT MURPHY, SHERWOOD, AR, BRANCH 3745**

**June 2, 2016 (6077)**

This is in reply to your letter, dated May 6, 2016, concerning clarification of your authority to remove a steward in Branch 3745.

At the outset, it would be inappropriate for me to comment on the particular facts set forth in your letter, as I only have your side of the story before me. I can provide the following general guidance.

The ability of a Branch President to remove shop stewards is determined by the manner of steward selection. If the Branch's stewards are appointed 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 ByLaws. 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 Constitution for the Government of Subordinate and Federal Branches (CGSFB).

Beyond the foregoing, a Branch President does have the authority to suspend a steward temporarily for failing to meet his/her responsibilities. As you noted in your letter, Article 6, Section 1 of the CGSFB provides specifically 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."

Finally, the removal or suspension of a steward by the President would be subject to appeal to the Branch, as provided by Article 11, Section 1 of the CGSFB. The Branch's decision may be appealed to the National Committee on Appeals in accordance with the procedures set forth in Article 11, Section 2 of the CGSFB.

It is up to you to apply the above principles to the particular situation presented. I can advise that if, as stated in your letter, the steward in question was appointed not elected, then you would have the authority to remove him, subject to his right to appeal.

Finally, the fact that you appointed this steward would certainly not prevent the Branch from holding an election for his replacement in accordance with its ByLaws.

## **ANN MOORE, DOUG BLANTON & THELMA BROWN, SAN DIEGO, CA, BRANCH 70**

**June 2, 2016 (6078)**

Your email to NALC Secretary-Treasurer Nicole Rhine, dated May 23, 2016, has been referred to me for reply, insofar as your email raises questions involving interpretation of the NALC Consti-

tution. In particular, you ask whether either party can bring an attorney or other representative to the fact-finding interviews to be conducted by a committee investigating charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). You also asked whether a tape recorder may be used to record the fact finding proceedings.

In response to your first question, Article 10 does not contain any provisions authorizing outside persons to assist either the charging or charged party. Article 10, Section 3 simply provides that "[t]he parties are entitled to be heard by the committee, to present evidence and to cross-examine all witnesses who make statements to the committee." Accordingly, while the investigating committee may allow either party to have a representative to assist him/her, the committee is not required to do so and may deny such representation.

If the committee does agree to a request for outside representation, the other party should be notified. The participation of an outside representative should not result in a delay of the proceedings. If the committee allows an attorney to be involved in the proceedings, the expense must be borne by the party choosing such representation.

In response to your second question, there is no prohibition against tape recording an investigatory hearing. However, all parties and witnesses should be notified that the proceedings are being recorded.

## **GLENN BELT, EVANSVILLE, IN, BRANCH 377**

**June 2, 2016 (6076)**

This is in reply to your letter, which was faxed to NALC Headquarters on May 23, 2016, requesting guidance with respect to a question that was considered and tabled at Branch 377's meeting on May 18. The question is whether a City Carrier Assistant who is a dues paying member, but not a full-time employee with a route or a carrier technician with a swing, may be excluded in a survey/opinion poll taken by the Branch over a particular subject.

Your letter does not provide sufficient information as to the nature of the poll to allow me to give you a definitive answer. Generally speaking, the NALC Constitution does not contain any provisions governing opinion surveys which are taken for information purposes only and which are not binding on the Branch. In that circumstance, the Branch would have discretion to restrict the survey to whichever class of members it wished. However, if the survey is actually a membership vote that will bind the Branch in some fashion, then it may be inappropriate to exclude CCAs.

For example, previous rulings held that part-time flexible members should be allowed to vote in an election concerning a provision of the Local Memorandum of Understanding which does not necessarily affect them, such as fixed or rotating days off. This reasoning would be applicable to CCAs. Article 2 of the NALC Constitution treats CCAs and full-time regular employees alike for

purposes of their NALC membership. Moreover, CCAs can expect to be full-time regular letter carriers in the future, and therefore have a genuine interest in the LMOU. It would be unfair to shut them out of the decision-making process.

Accordingly, CCA letter carriers who are branch members must be permitted a voice and vote at branch meetings when ascertaining the preferences of the Branch members as to items in the Local Memorandum of Understanding.

## **MARI THOMSON, PINE VALLEY, CA, BRANCH 70**

**June 14, 2016 (6092)**

This is in reply to your letter, dated June 13, 2016, concerning charges that have been filed against you under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Specifically, you ask whether you may have a representative accompany you to a meeting with the committee that has been appointed to investigate the charges who would participate in cross-examination of witnesses, note taking for a possible appeal, and presentation of evidence.

At the outset, it would be inappropriate for me to comment on any decisions which may have already been made by the investigating committee based solely on the limited information in your letter. I can provide the following general guidance which you may share with the committee.

Article 10 of the CGSFB does not specifically permit or prohibit a member from representing another member or officer against whom charges have been filed before the committee appointed to investigate the charges. Article 10 simply provides that "[t]he parties are entitled to be heard by the committee, to present evidence, and to cross-examine all witnesses who make statements to the committee." However, previous presidential rulings have held that a request by a charged party to be represented by a brother/sister NALC member is reasonable on its face. The investigating committee should not deny such a request arbitrarily or capriciously.

If the committee does agree to a request for outside representation, the other party should be notified. The participation of an outside representative should not result in a delay of the proceedings. If the committee allows an attorney to be involved in the proceedings, the expense must be borne by the party choosing such representation.

## **SUSAN HOOVER, NEW CASTLE, PA, BRANCH 22**

**June 15, 2016 (6086)**

This is in reply to your letter, dated June 2, 2016, requesting permission on behalf of Branch 22 to add Brother Rick Peruzzi to its list of delegates to the 2016 National Convention. Brother Peruzzi has succeeded RAA Brian Thomson as President of the Branch. However, his name was not on the list of delegates previously sent to National Headquarters.

Unfortunately, I cannot grant your request in the form in which you have stated it. Article 5 of

the NALC Constitution, in accordance with federal law, expressly requires that all delegates be formally nominated and, if there are more nominees than delegate positions, delegates must be elected by the entire membership. It is permissible for Branches to provide in their By-laws that certain officers will be delegates by virtue of their office. However, I have been advised that there are no such provisions in the Branch 22 By-laws. Accordingly, Brother Peruzzi cannot simply be *appointed* to fill a vacant delegate position.

There is an alternative solution. According to NALC Secretary-Treasurer Nicole Rhine, Branch 22 is entitled to thirty delegates to the National Convention but has only registered seven. I am willing to grant the Branch dispensation to extend the nomination deadline so that Brother Peruzzi can be formally nominated at a Branch meeting to be an additional delegate. While such an extension is permissible, it would be inappropriate for the extension to apply solely to Brother Peruzzi. Accordingly, the Branch may extend the deadline for nominations for delegates, but must notify all members of this extension and the opportunity for each member of the Branch to be nominated. If this process results in more nominees than delegate positions, the Branch will be required to conduct an election of delegates.

Federal law allows nominations and the election to take place at the same meeting, provided members have received appropriate notice at least 15 days in advance. I am granting dispensation for the Branch to follow this procedure if it is the only practical means of providing timely notice.

Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 22 dispensation to extend the time for nomination of delegates, subject to the conditions specified above.

**LOUISE JORDAN, SAN ANTONIO, TX,  
BRANCH 421**

**June 29, 2016 (6109)**

This is in reply to your letter, dated June 15, 2016, requesting clarification of the procedures for considering and voting on charges filed under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Specifically, you ask whether the Branch may permit debate on the charges before the vote is conducted.

Article 10 of the CGSFB provides the procedures that must be followed whenever a Branch member files charges. 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. Upon completion of the investigation, the committee must submit a written report to the Branch incorporating its findings of fact. Following the submission of the committee's report, the members 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. However, as suggested in your letter, previous rulings recognize that Branches have discretion to permit such debate in accordance with their Bylaws, 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.

**JOHN TRIPLETT, INDIANA STATE  
ASSOCIATION, INDIANAPOLIS, IN**

**June 29, 2016 (6108)**

This is in reply to your letter, dated June 23, 2016, concerning the apparent failure of the Treasurer of the Indiana State Association of Letter Carriers to perform the duties of his office. In particular, you note that he has failed to complete the State Association's LM-3 report.

While I appreciate that your allegations are extremely concerning, please understand that it would be inappropriate for me to comment on them. I can provide the following general guidance.

Unlike other parts of the NALC Constitution, the Constitution for the Government of State Associations (CGSA) does not contain any procedures for removing officers who neglect to perform their duties. Accordingly, the situation described in your letter may be addressed by the State President and the State Executive Board, in accordance with Article 8, Section 5 of the CGSA, providing that *[i]n conjunction with the President, [the Executive Board] shall have general supervision and control of the Association during recess*. This provision gives the Board discretion to take any appropriate action to ensure that the constitutional duties of the Treasurer are carried out, consistent with the State Association's By-laws. Such action could include assigning the Treasurer's duties to another elected officer.

In addition, Article 8, Section 1 of the CGSA states that the State Association President *shall fill all vacancies occasioned by death or otherwise, with persons duly qualified until an election can be held*. Accordingly, if the Board determines that the Treasurer has abandoned his office, you may treat this position as vacant and appoint a successor.

Finally, any actions taken by you or the Board will be subject to appeal to the National Committee on Appeals under Article 13 of the CGSA. Again, I express no view as to the merits of any action which may be taken by you or the Board, or the merits of any appeal.

**BONNIE ALSUP, FOND DU LAC, WI, BRANCH  
125**

**July 5, 2016 (6120)**

This is in reply to your letter, dated June 23, 2016, requesting dispensation to register Sister Jennifer Russ as a delegate to the National Convention from Branch 125. Your letter indi-

cates that Sister Russ was previously elected as a delegate but was not registered because she thought she could not attend. In addition, one of the two registered delegates from the Branch, Brother Aaron Leduc, cannot now attend the 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. I am forwarding a copy of your letter to Secretary-Treasurer Rhine's office so that the Sister Russ can be registered as expeditiously as possible.

**CLARA JEAN-BATISTE, LOUISIANA STATE  
ASSOCIATION, ST. MARTINVILLE, LA**

**July 7, 2016 (6125)**

This is in reply to your letter, dated June 29, 2016, requesting dispensation to register late yourself as delegate-at-large and Troy Scott as alternate delegate-at-large to the National Convention from the Louisiana State Association of Letter Carriers. Your letter indicates that you failed to submit the required registration form due to health issues.

At the outset, I am sorry to learn of your health issues, and pleased that you are well enough to attend the 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. I am forwarding a copy of your letter to Secretary-Treasurer Rhine's office so that you and Brother Scott can be registered as expeditiously as possible.

Please understand that this dispensation applies only to registration for the 2016 National Convention. In the future, the Louisiana State Association will be expected to comply with registration deadlines.

**KEVIN BOYER, COLUMBIA, MO, BRANCH  
763**

**July 7, 2016 (6126)**

This is in reply to your letter, dated June 27, 2016, requesting dispensation permitting Brother Ken Pittman to be registered late as a delegate to the National Convention from Branch 763. According to your letter, three of the Branch's previously registered delegates have become ineligible to serve because they have entered supervisory status. The Branch then nominated and elected Brother Pittman to serve as a replacement delegate at its meeting on June 14.

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 Nicole Rhine's office so that Brother Pittman can be registered as expeditiously as possible.

Please understand that this dispensation applies only to registration for the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**STEVEN MISEMER, NORTH LITTLE ROCK, AR, BRANCH 3745**  
**July 7, 2016 (6127)**

This is in reply to your recent letter, received by my office on July 1, 2016, requesting clarification of the principles governing the filling of vacant officer positions in Branch 3745 and the status of the Vice President upon the resignation of the President. Please be advised of the following.

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. Previous rulings interpreting the language of Article 6, Section 2 have concluded that the Vice President becomes the President of the Branch. Accordingly, the Vice President, upon assuming the presidency, may fill any remaining offices by appointment, as provided by Article 4, Section 2 of the CGSFB.

Article 4, Section 2 of the CGSFB specifically provides that the Branch President may fill vacancies in officer positions by appointment, unless the Branch Bylaws 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 indicates that the Branch 3745 By-laws do not 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 members to fill all vacant officer positions.

In response to your last question, please be advised that a Branch may not vote to suspend its By-laws. The Branch By-laws are binding on the Branch and may only be changed by amendment in accordance with Article 15 of the NALC Constitution.

If the Branch wants to conduct a special election, it may submit to the National President a request for special dispensation to do so. Such a request should be in a letter signed by the Branch President and should state the reasons for the request.

**ROBERT FALSO, JR., RHODE ISLAND STATE ASSOCIATION, WARWICK, RI**  
**July 12, 2016 (6119)**

This is in reply to your letter, dated June 24, 2016, requesting dispensation to register late as a delegate-at-large to the National Convention from the Rhode Island State Association of Letter Carriers. Your letter indicates that you did mail in your registration form, but you have recently discovered that the form was not received by Secretary Rhine'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 Sister Rhine's office so that you can be registered as expeditiously as possible.

Please understand that this dispensation applies only to registration for the 2016 National

Convention. In the future, the Rhode Island State Association will be expected to comply with registration deadlines.

**ERIC SLOAN, DECATUR, GA, BRANCH 73**  
**July 12, 2016 (6124)**

This is in reply to your letter, dated June 30, 2016, regarding the ruling issued by the NALC Committee on Appeals, dated June 10, 2016. The ruling requires Branch 73 to conduct a new election of officers and recommended that I appoint an experienced national representative to assist the Branch in conducting the election.

Please be advised that it is the Branch's responsibility to conduct the election in accordance with the requirements set forth in the NALC Regulations Governing Branch Election Procedures. As President of the Branch you are authorized to appoint an entirely new election committee to conduct the election.

**BRIAN MCGARRY, BOULDER, CO**  
**July 12, 2016 (6135)**

This is in reply to your letter, received by my office on July 6, 2016, inquiring whether a former Branch President, who was removed from office, is eligible to be a candidate for President in the upcoming election in Branch 642.

Please be advised that it would be entirely inappropriate for me to comment on any particular situation, especially since your letter contains very limited information. I can provide the following general guidance with respect to 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.

The fact that a member previously was removed from an elected office (but not suspended from membership) is of no relevance in determining the member's eligibility to be a candidate in a subsequent election. The Constitution does not contain any provisions disqualifying members who were removed from a previously held office, so long as the individual was not suspended from membership. It is up to the voting members to

decide whether the earlier removal bears on the former officer's present fitness to serve.

**RICARDO GUZMAN, SAN DIEGO, CA, BRANCH 70**  
**July 14, 2016 (6143)**

This is in reply to your email, dated July 11, 2016, concerning charges that have been filed against a member of Branch 70 under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). According to your email the committee appointed to investigate the charges was unable to complete its investigation in time to report at the Branch's meeting on June 2, which apparently was the first meeting following the reading of the charges. In addition, the Branch did not entertain a motion to extend the committee's time to report. You now ask whether the committee may submit its report, and whether the Branch may vote on the charges, at the next scheduled meeting on July 14.

At the outset, it would be inappropriate for me to rule on this specific situation. I can provide the following general guidance.

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 provides 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.

Prior rulings have recognized that the failure to make a motion to extend the time for the committee to report does not necessarily require that the charges be dismissed. Accordingly, at the July 14 meeting the Branch could consider a motion to extend the committee's time to report so that if the motion passed, the committee could present its report later at the same meeting. This issue would turn on a review of all the fact circumstances. Prior rulings have recognized that circumstances sometimes arise which prevent an investigating committee from completing its investigation within the time frame provided by Article 10, Section 1.

I express no view as to whether an extension of time would be appropriate in this case. Moreover, any member dissatisfied with the Branch's decision would have the right to appeal to the National Committee on Appeals.

**JAMES BREEDING, INDIANAPOLIS, IN, BRANCH 39**  
**July 19, 2016 (6033 and 6034)**

This is in reply to your two emails, dated April 14 and 16, 2016, as well as your follow-up email sent yesterday.

Your emails seek guidance with respect to several issues.

First, your April 14 email requests dispensa-

tion to continue voting on charges against the President of Branch 39. Please be advised that dispensation from me is normally not necessary. Article 10, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) states that the vote on charges *may be continued once, by motion, to the following regular Branch meeting*. I understand that the Branch may have postponed the vote on the charges pending receipt of this ruling. If that is the case, then the Branch may vote to allow the vote on the charges to take place at the next meeting following your receipt of this letter.

Second, you ask how the Branch should consider lesser penalties under Article 10, Section 4 of the CGSFB if less than two-thirds of the members present at the meeting vote in favor of removal or expulsion. Please be advised that lesser penalties, such as suspension or reprimand, may be adopted by a simple majority vote. The Constitution does not specify a particular procedure for consideration of lesser penalties. Typically, the chair of the meeting would entertain a motion from the floor to impose such a penalty. The issue may then be debated and voted upon by the members in attendance.

Apart from the foregoing, please note that Article 10, Section 4 explicitly requires that *a fine and the amount thereof must be approved by a two-thirds secret ballot vote*.

In addition, there is no requirement in the Constitution that a Branch penalize a member who has been found guilty of a charge. To the contrary, Article 10, Section 3 of the CGSFB provides 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*. (Emphasis supplied.) This language vests Branches with discretion not to impose penalties on members who have been found guilty of charges.

Finally, your April 16 email requests an interpretation of the language in Article 6, Section 2 of the CGSFB stating that *The Vice President shall preside in the absence of the President . . .* As suggested in your email, this provision authorizes the Vice President to preside over membership and Executive Board meetings when the President is absent. The language does not otherwise empower the Vice President to assume the constitutional authority of the President simply because the President is away for one or more days. However, if the President were to be suspended pursuant to Article 10, the Vice President would be required to assume the full responsibilities of the President during the period of suspension.

**STEVEN MISEMER, NORTH LITTLE ROCK, AR, BRANCH 3745**  
**July 20, 2016 (6136)**

This is in reply to your letter, received by my office on July 6, 2016, in which you ask me to consider appointing a trustee to take charge of Branch 3745. Your request was prompted by the passage of a motion to require a special election of all officers of the Branch.

Your letter was obviously written before you re-

ceived my ruling of July 7. In that ruling, I advised you that as Vice President of the Branch you succeeded to the presidency upon the resignation of the President. Further, as President of the

Branch, you are authorized to fill all remaining officer vacancies by appointment, including the office of Vice President. A motion to conduct a special election is not consistent with the Constitution and need not be implemented, unless the Branch 3745 By-laws specifically provide for a special election to fill vacancies.

The above ruling would appear to render moot your request for the appointment of a trustee. In addition, the information provided in your letter does not warrant any intervention by the National Union at this time. You may, of course, file charges against former officers under Article 10 of the Constitution for the Government of Subordinate and Federal Branches, but any such charges must be processed at the Branch level.

**VERLYN NEGRON NICHOLSON, HIGH POINT, NC, BRANCH 936**  
**July 25, 2016 (6151)**

This is in reply to your letter, dated July 4, 2016, in which you raise a number of issues apparently relating to actions taken by officers of Branch 936.

I do appreciate your concerns. However, I must advise that it would be inappropriate for me to comment on any of the specific matters mentioned in your letter, particularly since I only have your side of the story before me. I can provide the following general guidance.

A member who objects to actions taken by an officer of the Branch (e.g. with respect to the preparation of minutes or the withholding of Branch funds) may appeal those actions to the Branch President under Article 11, Section 1 of the Constitution for the Government of Subordinate and Federal Branches. (CGSFB). Any decision of the Branch President may be appealed to the members under Article 11, Section 1. An aggrieved member may appeal any decision of the Branch to the National Committee on Appeals in accordance with the procedures provided by Article 11, Section 2 of the CGSFB.

Allegations that Branch officers have improperly used Branch resources to support election campaign activity may be the subject of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures.

**TASHA HOLBEN, COUNCIL BLUFFS, IA, BRANCH 314**  
**July 25, 2016 (6152)**

This is in reply to your letter, dated July, 13, 2016, requesting dispensation to register Sister Lesa Wilson as a delegate to the National Convention from Branch 314. Your letter indicates that Sister Wilson was previously elected as an alternate delegate but was not registered because she was not able to attend at that time. However, Sister Wilson is now able to attend the Convention and one of the registered delegates from the Branch, Sister Amy Krause, has accepted

a transfer to another state so that she is no longer eligible to be a Branch 314 delegate.

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 Rhine's office so that Sister Wilson can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**DANNY HILLIARD, DALLAS, TX, BRANCH 132**  
**July 25, 2016 (6158)**

This is in reply to your letter, dated July, 13, 2016, requesting dispensation to register four members as alternate delegates from Branch 132: Larry Ausborne, Keith Hayes, Matthew Lefall and Dela Wardrum. Your letter indicates that these members were inadvertently left off the Branch's delegate list and the error was just discovered.

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 Rhine's office so that the four members can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**JON CALLOWAY, SPRINGFIELD, IL, BRANCH 80**  
**July 25, 2016 (6159)**

This is in reply to your letter, dated July, 18, 2016, requesting dispensation to register Sister Teena Lowery as a delegate from Branch 80. Your letter indicates that Sister Lowery was inadvertently left off the Branch's delegate list and the error was just discovered.

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 Rhine's office so that Sister Lowery can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**THOMAS DEVERY, RICHARDSON, TX BRANCH 4784**  
**July 25, 2016 (6160)**

This is in reply to your letter, dated July, 18, 2016, requesting dispensation to register three members as delegates from Branch 4784: Der-

rick E. Greene, Jonathan R. Griggs, and Clyde M. Smith, III. Your letter indicates that you did mail in the Branch's delegate list, but you have recently discovered that the list was not received by Secretary/Treasurer Rhine'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 Sister Rhine's office so that the three delegates can be registered as expeditiously as possible.

Please understand that this dispensation applies only to registration for the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**MARI THOMSON, PINE VALLEY, CA, BRANCH 70**

**July 26, 2016 (6156, 6171 and 6173)**

Your first email, dated July 18, 2016, asks whether an investigating committee can call its own witnesses to appear at a charge hearing. Generally speaking, the answer to your question is yes. Essentially, this is a decision which the committee must make in light of the particular facts presented. Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) states that "It shall be the duty of the committee to find the true facts and report to the Branch." Presidential rulings have 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. At the same time, Article 10, Section 3 provides that the parties are "entitled . . . to cross-examine all witnesses who make statements to the committee." Thus, if the committee does call its own witnesses, the parties must be afforded an opportunity to cross-examine those individuals.

Your second email, dated July 21, asks whether I authorized the committee of three to delay its decision on the charges against you. Please be advised that I did not rule on your specific situation. I did provide general guidance on the issue in a letter to Branch President Guzman, dated July 13, 2016. A copy of that letter is enclosed.

Your third email, also dated July 21, asks if the Branch Executive Vice President or the Vice President should appoint a committee to investigate charges against the Branch President. Previous rulings have held that the Executive Vice President should handle that responsibility. The intent of the Constitution is for the highest ranking officer next to the President to appoint the fact-finding committee.

**RANDY ZEBIN, PHILADELPHIA, PA, BRANCH 157**

**July 26, 2016 (6157)**

This is in reply to your e-mail, dated July 19, 2016. According to your e-mail, the Branch 157 Recording Secretary has stopped signing *waiver/warrants* which are needed for the Branch to pay its everyday bills and expenses. You now ask whether you may assign this duty to the Assistant

Recording Secretary.

At the outset, it would be inappropriate for me to rule on this specific situation, particularly since I am not familiar with the term *waiver/warrant* and your e-mail does not clearly explain the Branch's policy and practice. I can, however, provide the following general guidance.

Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) specifically provides that the Branch President has "general supervisory powers over the Branch," including the power to "see that officers perform their duties." Accordingly, the Branch President has the authority to issue instructions to any subordinate officer with respect to the performance of his/her duties. In appropriate circumstances, this authority could involve temporarily reassigning duties to another officer.

Any such action, however, would be subject to appeal under the provisions of Article 11 of the CGSFB. As provided by Article 11, Section 1, any decision of the Branch President may be appealed to the Branch. The Branch's decision may be appealed to the National Committee on Appeals in accordance with the procedures set forth in Article 11, Section 2 of the CGSFB. I express no view as to the merits of any potential appeal.

**DONNA BENNETT, SOUTH CAROLINA STATE ASSOCIATION, AIKEN, SC**

**July 26, 2016 (6172)**

This is in reply to your letter, dated July 19, 2016, requesting dispensation to register late the following members as delegates at large and alternate delegates at large to the National Convention from the South Carolina State Association of Letter Carriers: Michael Hamilton and Curtis Hilton, delegates at large; Donna Jackson Bennett and John Crader, alternate delegates at large.

Your letter indicates that you did mail in the proper registration paperwork, but you have recently discovered that it was not received by Secretary/Treasurer Rhine'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 Sister Rhine's office so that the above members can be registered as expeditiously as possible.

Please understand that this dispensation applies only to registration for the 2016 National Convention. In the future, the South Carolina State Association will be expected to comply with registration deadlines.

**CORY GIBSON, FLORIDA STATE ASSOCIATION, LAKELAND, FL**

**July 26, 2016 (6175)**

This is in reply to your letter, dated July 19, 2016, requesting dispensation to register late Al Friedman as a delegate-at-large to the National Convention from the Florida State Association of Letter Carriers. Your letter indicates that you did mail in the proper registration paperwork, but you have recently discovered that it was not received by Secretary/Treasurer Rhine'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 Sister Rhine's office so that Brother Friedman can be registered as expeditiously as possible.

Please understand that this dispensation applies only to registration for the 2016 National Convention. In the future, the Florida State Association will be expected to comply with registration deadlines.

**MICHAEL PLASKON, PITTSBURGH, PA, BRANCH 84**

**August 4, 2016 (6180)**

This is in reply to your letter, dated July 29, 2016, requesting dispensation to register a delegate to the National Convention from Branch 84. Your letter indicates that this individual was inadvertently left off the Branch's delegate list and the error was just discovered.

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 contact Secretary/Treasurer Rhine's office immediately upon receipt of this letter so that the delegate in question can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**KRISTINE FIATOA, PEARL CITY, HI, BRANCH 4682**

**August 4, 2016 (6183)**

This is in reply to your letter, dated August 3, 2016, advising that only three of Branch 4682's authorized four delegates are able to attend the National Convention.

Please be advised that the Constitution does not require that Branches send all delegates to which they are entitled. It is entirely permissible for Branch 4682 to be represented at the Convention by three delegates.

You should also know that the Branch could not, in any event, "designate" an unelected fourth delegate, as suggested in your letter. Consistent with federal law, Article 4, Section 3 of the NALC Constitution requires that vacancies in the office of delegate be filled by "election."

**GENE FEIST, PLOVER, WI, BRANCH 381**

**August 5, 2016 (6184)**

This is in reply to your letter, received by my office on August 3, 2016, requesting dispensation to register Sister Natalie Cychosz as an alternate delegate from Branch 381, who will take your place at the National Convention. Your letter indicates that Sister Cychosz was inadvertently left off the Branch's delegate 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. I am forwarding a copy of

your letter to Sister Rhine's office so that Sister Cychosz can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**DANIEL NACIN, EAST HARTFORD, CT  
BRANCH 86**

**August 8, 2016 (6174)**

This is in reply to your letter, dated July, 19, 2016, requesting dispensation to register Brother Joseph Salerno as a delegate from Branch 86. Your letter indicates that Brother Salerno was inadvertently left off the Branch's delegate list and the error was just discovered.

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 Rhine's office so that Brother Salerno can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**LYNNETTE RARICK, NORTHWOOD, OH,  
BRANCH 100**

**August 8, 2016 (6188)**

This is in reply to your letter, dated August 4, 2016, requesting dispensation to register Sister Gina Cousino as a delegate from Branch 100 to the National Convention. Your letter indicates that Sister Cousino was inadvertently left off the Branch's delegate 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. I am forwarding a copy of your letter to Sister Rhine's office so that Sister Cousino can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**MARY MEDINA, FRESNO, CA, BRANCH 231**

**August 8, 2016 (6189)**

This is in reply to your letter, dated August 5, 2016, requesting dispensation to register a list of alternate delegates from Branch 231 to the National Convention. Your letter indicates that the Branch inadvertently failed to provide a list of its alternates when it registered its delegates.

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 and the attached delegate list to Sister Rhine's office so that the alternate delegates can

be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2016 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**RICARDO GUZMAN, SAN DIEGO, CA,  
BRANCH 70**

**August 30, 2016 (6200, 6201 and 6202)**

This is in reply to your three letters, each dated August 12, 2016. The letters ask several questions pertaining to charges now being processed in Branch 70.

One of your letters concerns the appointment by the Vice President of the Branch of a committee to investigate charges against you. As noted in my recent letter to Sister Thomson, previous rulings have held that the Executive Vice President should handle that responsibility. The intent of the Constitution is for the highest ranking officer next to the President to appoint the fact-finding committee.

However, the fact that the committee was appointed by the Vice President does not necessarily require the appointment of a new committee. The Constitution does not prohibit the next highest ranking officer from deferring the appointment to another officer, so long as the appointing officer and the members of the committee are disinterested in the charges. Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (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. Ultimately, what matters is that the facts are fully investigated and that a fair and accurate presentation is made to the Branch before it votes on the merits of the charges.

In answer to the specific question in your letter, if the Branch decides to allow the Executive Vice President to take over appointment responsibility, it would be permissible for him to appoint the same committee. In addition, I must note that challenges to the composition of the investigating committee can be made in an appeal to the Committee on Appeals from the Branch's decision. I express no view as to the merits of any potential appeal.

In another letter, you ask whether the Branch may impose a time limit on the charged party's presentation of his/her defense. 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." Previous rulings have recognized that the Branch may impose reasonable time limitations on the charged party's defense prior to the vote on the investigative committee's report. This may be done so that the Branch can complete the agenda of the meeting within a

reasonable period of time. The reasonableness of any particular limit would have to be determined on a case-by-case basis.

You also ask whether the Branch President would violate Robert's Rules of Order by correcting misinformation presented by the charged party. Please be advised that it would be inappropriate for me to rule on this question. The NALC Constitution does not require Branches to adhere to Robert's Rules. If a Branch adopts Robert's Rules, then disputes over their application must be resolved by the Branch itself. I can advise that Article 10, Section 3 does not prohibit Branches from conducting debate on pending charges at which other members are permitted to speak so long as the charged party's right to present a defense is not compromised.

Finally, you ask whether a Branch may appoint a single committee to investigate multiple charges against multiple parties. Generally speaking, the answer to this question is yes. Article 10, Section 3 of the CGSFB does not specifically require multiple committees to handle multiple charges. Accordingly, the appointing officer would have discretion to appoint a single committee. As noted above, the only qualification is that the members of the committee would have to be disinterested with respect to all charges they are responsible for investigating.

**JOSEPH ANTAL, PENNSYLVANIA STATE  
ASSOCIATION**

**August 31, 2016 (6209)**

This is in reply to your letter, dated August 23, 2016, concerning a proposal to reduce the size of the Executive Board of the Pennsylvania State Association from 13 to 8 members. The proposal will be voted on at the State Convention later this year. Your letter requests dispensation permitting the State Association to implement the reduction for this year's nominations if this change is approved by the State Convention.

The proposed reduction in the number of Executive Board members, as described in your letter, appears to be consistent with Article 6, Section 1 of the Constitution for the Government of State Associations which requires state associations to elect a minimum of 5 Board members. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. If the Convention votes to reduce the Board to 8 members, the Convention may limit nominations to 8 positions, notwithstanding that this change to the State Association By-laws will not have been reviewed by the NALC Committee of Laws. The State Association will still be required to submit the By-law amendment to the Committee for final approval.

**DONNA HEALEY, LUNENBURG, MA,  
BRANCH 212**

**September 1, 2016 (6199)**

This is in reply to your letter, received by my office on August 17, 2016, requesting dispensation permitting the restoration of your membership in the NALC as a retiree.

I have concluded that your request is appropri-

ate in light of the extraordinary health challenges and personal issues you experienced during and after your retirement from the Postal Service. 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 complete a Form 1189 authorizing deduction of your dues from your annuity. In addition, 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.

**JOHN MURPHY, BROOKLYN, NY, BRANCH 41  
September 2, 2016 (6207)**

This is in reply to your email, dated August 25, 2016, inquiring as to whether Brother Mangano remains eligible to run for re-election as Branch 41's Health Benefits Representative. According to your email, following the denial of his appeal by the National Convention, Brother Mangano has an outstanding balance owed to the Branch of approximately four thousand dollars. Branch 41 nominations are scheduled for October 18, 2016.

Previous rulings have held that the fact that a member owes an individual debt to the Branch does not, by itself, disqualify the member from running for or holding branch office. However, such an individual ultimately could be removed from membership for failure to repay an established debt in a timely manner. Obviously, if Brother Mangano were to forfeit his membership entirely, he would no longer have any right to run for union office.

The rulings have also noted that it is up to the Branch to decide how and when to collect outstanding debts owed by members. For example, the Branch may set a deadline for making the payment and, if the member fails to do so, declare that debtor has forfeited his 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 the member.

The ruling by the Committee on Appeals that was upheld by the Convention stated that "the parties may agree to a payment schedule, if necessary to avoid financial hardship to any individual." (Appeal No. 21, ruling dated April 13, 2016.) If the Branch and Brother Mangano did work out a repayment schedule, then Brother Mangano would remain eligible to be a candidate for Branch office, so long as he adheres to that schedule.

**RICK ASHLEY, METAIRIE, LA, BRANCH 6119  
September 9, 2016 (6190)**

Your letter to NALC Secretary-Treasurer Nicole Rhine, dated July 15, 2016, has been referred to

me for reply, insofar as your letter raises questions which pertain to the application of the NALC Constitution. One issue relates to the apparent inability of the Vice President of Branch 6119 to fulfill the duties of his office due to an injury. The second issue involves an apparent dispute with a Branch Trustee regarding convention expenses.

I will address your questions in the order presented. However, before doing so I must emphasize that as National President, it is my responsibility to rule on the interpretation of the NALC Constitution. Issues involving the interpretation or application of the Branch By-laws must be resolved, in the first instance, at the Branch level.

With regard to Vice President Amedee's injury, I can confirm that the President of the Branch may appoint a member to fill a temporary vacancy in a Branch officer position resulting from the physical incapacity of the incumbent. As previous rulings have recognized, the President's authority to make a temporary appointment is based on Article 4, Section 2 and Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

However, 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 would remain obligated to pay Brother Amedee the salary of the Vice President if another member is performing the duties of his office under a presidential appointment. This issue is controlled by the Branch By-laws. It is the responsibility of the Branch, in the first instance, to interpret and apply its own By-laws. Relevant factors include the language of the By-law, any pertinent past practice, 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.

With regard to your alternative suggestion, I can advise that nothing in the Constitution would prohibit the Branch from asking Brother Amedee to voluntarily step down so that his salary can be paid to someone else. (Additionally, please convey to Brother Amedee my best wishes for a full and speedy recovery.)

It would be inappropriate for me to address the merits of the dispute over Sister Giffit's convention expenses at this time, particularly since I only have your side of the story before me. I can advise that there are no provisions in the Constitution which address whether the Branch may deduct the sums allegedly owed from an officer's salary or whether the salary may be withheld. Again, issues of officer compensation are governed by the Branch By-laws. If the Branch does implement any deductions, or withholds Sister Giffit's salary, she would have the right to appeal such actions to the Branch under Article 11 of the CGSFB.

You also ask whether Sister Giffit may be removed from office for debts owed. 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 office. However, such an individual ultimately could be removed from membership, so long as the appropriate procedures are followed.

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 where the existence and/or the amount of the debt is in dispute. 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. 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 reimburse the Branch the amount of a debt 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.

**KEITH KRONOFF, EPHRATA, PA, BRANCH  
273**

**September 9, 2016 (6229)**

This is in reply to your recent letter concerning the ongoing dispute in Branch 273 over your responsibility for reimbursing the Branch for the cost of a non-refundable airline ticket, which the Branch purchased to allow you to attend the 2016 National Convention, when in fact, you did not go to the Convention. According to your letter, you were verbally promised that you would be excused from responsibility for reimbursing the Branch for the cost of the ticket. However, you have now been told that you are not a member in good standing, and that you will not be permitted to attend the upcoming state convention as a paid delegate.

At the outset, it would be inappropriate for me to address the merits of this dispute at this time, particularly since I only have your side of the story before me.

I can advise you that, generally speaking, the mere fact that a member owes a debt to a Branch is not sufficient, by itself, to justify a loss of membership status. 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 Constitution for the Government of Subordinate and Federal Branches (CGSFB).

Past rulings have concluded that the procedure for filing and adjudicating charges set forth in Article 10 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. 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 reimburse the Branch the amount of a debt is not a "fine" within the meaning of Article 10, Section 4 of the CGSFB and, therefore, does not require a two thirds majority. The Branch's decision may be appealed to the National Committee on Appeals.

There are no provisions in the Constitution which address whether the Branch may deduct the sums allegedly owed from your officer salary or compensation as a paid delegate to the state convention. Officer and delegate compensation issues are governed by the Branch By-Laws. If the Branch does implement any deductions, or withholds compensation, you would have the right to appeal such actions to the Branch under Article 11 of the CGSFB.

**CINDY KIRBY, CENTREVILLE, VA, BRANCH 47**

**September 13, 2016 (6231)**

This is in reply to your letter, dated September 6, 2016, requesting reinstatement of your membership in the NALC as a retiree.

At the outset, I very much appreciate your interest in resuming your active participation in the work of the NALC as well as your past contributions. Regretfully, I must advise that the language of the NALC Constitution prevents me from granting your request.

According to our membership records, you were separated from the Postal Service some time in 2015. 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. Based on this language, your membership status was terminated at that time. Article 2, Section 1(a) also states that retiree members must be regular members "when they retired." Therefore, an active member who resigns from the Postal Service before he/she retires is not eligible for retiree membership in the NALC.

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 you had remained on the rolls, as permitted by the ELM, you could have maintained your membership in the NALC. Then, when your disability retirement application was approved,

you could have executed a Form 1189 and become a retiree member. Since it appears that you separated from the rolls instead, this option is no longer available. This rule has been consistently applied by NALC to former members whose disability retirement application is approved after their separation from the Postal Service.

**ROBERT WILLIAMS, WASHINGTON, DC, BRANCH 142**

**September 13, 2016 (6232)**

This is in reply to your letter, dated September 9, 2016 requesting dispensation permitting Branch 142 to conduct a late election of delegates to the State Convention. According to your letter, the Branch failed to arrange for timely publication of a notice of nominations and election of delegates in the Postal Record. Accordingly, you now ask for permission to conduct nominations at the Branch's regular meeting in December, and to hold the election of delegates to the Maryland/D.C. state convention at the Branch's regular meeting in January.

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 arrange for timely publication of the appropriate notice. This dispensation releases Branch 142 from the requirement to elect its state association delegates by December of the year proceeding the convention year, as provided by Article 5, Section 4 of the NALC Constitution.

**KIMBERLY ARNHOLD, PASADENA, TX, BRANCH 3867**

**September 19, 2016 (6238 & 6240)**

This is in reply to your two recent letters, dated September 7 and 12, 2016. Your letters seek guidance with respect to two questions involving the upcoming election of officers in Branch 3867.

Your first letter asks whether requests for absentee ballots mailed to the Branch prior to nominations are valid. Please be advised that Section 5.21 of the NALC Regulations Governing Branch Election Procedures (RGBEP) specifically states that "Absentee ballots must be requested after nominations have closed but at least two (2) weeks before the election." However, Section 5.21 also states that the Branch's notice of nominations and election "should also state who can request an absentee ballot, when such requests must be received, and when requests must be made." Since I do not have the Branch's election notice before me, I do not know whether the Branch complied with this requirement.

In any event, it will be up to the Branch Election Committee, in the first instance, to decide how to respond to the absentee ballot requests you have received. The Committee's decision could be subject to a post-election appeal.

As to your second letter, it would be inappropriate for me to comment on the campaign mailings that you enclosed with your letter. I can tell you that the NALC election regulations do not prohibit members from mailing campaign material, at their own expense, prior to nominations.

**COSMO BACCOMO, LUGHOFF, SC, BRANCH 233**

**September 20, 2016 (6242)**

This is in reply to your letter, received by my office on September 15, 2016, concerning the apparent decision of Branch 233 President Blank to remove a steward for failure to perform his duties. According to your letter, Brother Blank's decision was justified, but was overturned by vote of the members of the Branch.

While I appreciate your concerns, I must advise that it would be inappropriate for me to comment on this specific situation at the present time based on the limited information contained in your letter. I can provide the following general advice as to the relevant constitutional principles.

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 Constitution for the Government of Subordinate and Federal Branches (CGSFB)

Beyond the foregoing, a Branch President also the authority to suspend a steward temporarily for failing to meet his/her responsibilities. As you recognize, Article 6, Section 1 of the CGSFB expressly provides that a Branch President has "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."

However any such decision by a Branch President is subject to appeal under Article 11 of the CGSFB. This was made clear at the 2008 Convention in Boston, when the provisions of Article 6, Section 1 quoted above were first adopted. Following the debate, President Young stated the following from the podium:

There is an appeal in Article 11 from any decision made by the branch president. So Article 11 of the Constitution clearly covers any steward who is removed, they would have a right to appeal decision of the branch president to remove them to the entire branch.

Proceedings, 2008 Convention, page 38.

The foregoing is not intended to cast doubt on the validity of Brother Blank's decision or to suggest that any appeal to the Branch did or did not have merit. As indicated above, this letter ex-

presses no view on whether the steward should have been removed. However, I can advise that a Branch vote to overturn the President's decision may be appealed to the National Committee on Appeals under Article 11, Section 2 of the CGSFB.

**DENISE REED, DECATUR, GA, BRANCH 73  
September 20, 2016 (6244)**

This is in reply to your letter, dated September 9, 2016, regarding your ongoing dispute with Branch 73 President Eric Sloan over your duties as Recording Secretary.

At the outset, while I appreciate your concerns, I must advise that there simply is no basis for any intervention by the National Union in this matter at this stage, particularly since I only have your side of the story before me. 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.

Apart from the foregoing, I can advise you of the following general principles.

Article 6, Section 1 of the CGSFB provides that the Branch President shall "have general supervisory powers over the Branch," which includes the authority to "see that officers perform their duties [and] enforce the Constitution, By-Laws, Rules and Regulations of the Branch." As previous rulings have consistently recognized, this provision confers upon the Branch President supervisory authority over subordinate officers.

With respect to the preparation of minutes, 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 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." However, the rulings have also recognized that the Branch President's supervisory authority over subordinate officers does include the authority to direct the Recording Secretary with respect to the preparation of minutes.

As indicated above, you do have the right to challenge any of the President's decisions through the appeal process provided by Article 11. This letter should not be read to express any view as to the merits of any appeal that you may initiate.

**ANTHONY MARCHESI, YONKERS, NY,  
BRANCH 387**

**September 20, 2016 (6245)**

This is in reply to your letter, dated September 12, 2016, requesting dispensation permitting the Branch 387 Executive Board to hold meetings with a quorum of seven members, notwithstanding the current Branch By-laws which provide for a quorum of thirteen Board members. According

to your letter, you learned for the first time at the 2016 National Convention that the Branch has erroneously included appointed shop stewards on the Executive Board. Pending amendment of the By-laws, stewards will henceforth be permitted to attend Board meetings solely in an advisory capacity. However, it appears that without the stewards it is no longer possible to maintain a quorum requirement of thirteen.

The solution proposed in your letter is consistent with the NALC Constitution and certainly appears to be reasonable. Therefore, 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. Pending amendment of the Branch 387 By-laws, the Branch Executive Board may meet and discharge its duties and responsibilities with a quorum of seven members.

**DONALD BOBBITT, OAKMAN, AL, BRANCH  
3099**

**September 27, 2016 (6248)**

This is in reply to your letter, dated September 13, 2016, requesting dispensation permitting the restoration of your membership in the NALC as a retiree.

I have considered the facts set forth in your letter along with additional information provided by Secretary-Treasurer Nicole Rhine. I 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 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 will provide whatever assistance may be necessary to ensure that your back dues are properly calculated.

In closing, allow me to express my deep appreciation for your many past and continuing contributions to your Branch, despite your health challenges. I commend your dedication to the work of our Union, and wish you a long and happy retirement.

**MICHAEL MANLEY, WILKES-BARRE, PA,  
BRANCH 115**

**September 29, 2016 (6253)**

Your letter to Secretary-Treasurer Nicole Rhine, dated September 16, 2016, has been referred to me to reply to your question whether members serving as 204b supervisors may vote in the upcoming election of officers in Branch 115. The answer to your question is set forth below.

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, 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 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.

Accordingly, if a 204b returns to a bargaining unit assignment, the member would at that point have the right to vote in the election.

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.

**FRANCES LOPEZ, SAN FRANCISCO, CA,  
BRANCH 2100714**

**October 17, 2016 (6271)**

This is in reply to your letter, dated October 7, 2016, 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.

#### **WALTER BARTON, AMITYVILLE, NY, BRANCH 6000**

**October 17, 2016 (6274)**

This is in reply to your email, dated October 12, 2016, concerning charges filed by Branch 6000 member David Rivera seeking the removal of a steward.

At the outset, as a member of the Branch, Brother Rivera does have the right to have his charges processed under Article 10 of the Constitution for the Government of Subordinate and Federal Branches. Accordingly, as specified in Article 10, Sections 2 and 3, the charges must be read at the first meeting after they have been served on the charged party, and you must thereafter appoint a committee of three disinterested members to investigate the charges.

At the same time, I agree with your suggestion that the investigation may lead to evidence that jeopardizes the pending grievance over the discipline issued to Brother Rivera. It would appear prudent to delay the investigation until the discipline grievance has been resolved.

Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 6000 dispensation to delay the investigation of the charges by the appointed committee until the grievance involving the discipline against Brother Rivera has been finally resolved.

#### **STEVE BROUGHTON, MILLVILLE, NJ, BRANCH 534**

**October 18, 2016 (6269)**

This is in reply to your letter, dated October 1, 2016, concerning the appointment of a committee to investigate charges against the President of Branch 534. According to your letter, you have been unable to appoint a committee of three members who are disinterested in the charges against President Maldonado.

Your request for assistance in appointing the committee appears to be reasonable in light of the facts presented in your letter. Accordingly, by copy of this letter I am directing National Business Agent Bill Lucini, or a representative from his office whom he may designate, to appoint the investigating committee. If necessary, Brother Lucini, or his designee, may contact Branches located near Branch 534 and arrange for the appointment of a committee to investigate the charges consisting of three members from outside Branch 534.

Please contact Brother Lucini and provide him with a copy of the charges.

#### **NAKEYAH TAYLOR, VINELAND, NJ, BRANCH 534**

**October 20, 2016 (6279)**

This is in reply to your letter, dated October 8, 2016 requesting dispensation permitting Branch 534 to postpone its nomination of officers from October to November, and to postpone the election from November to December. According to your letter, due to a turnover of officers, the Branch inadvertently failed to provide the members timely notice of its nominations and 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 make sure that the members receive timely notice of the new dates for both nominations and the election.

In addition, Branch 534 must understand that this dispensation applies only to its 2016 election. In the future the Branch must adhere to the time frames for nominations and elections set forth in its By-laws.

#### **MICHAEL ALEXANDER, NEW ORLEANS, LA, BRANCH 124**

**October 20, 2016 (6280)**

Your letter to NALC Secretary-Treasurer Nicole Rhine, dated October 11, 2016 has been referred to me for reply insofar as your letter raises a question of constitutional interpretation. In particular, you ask whether a Branch President who has appointed another Branch officer may subsequently rescind that appointment.

The answer to your question is no. 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.

For purposes of the Constitution, it is of no significance whether the officer was elected or appointed by the Branch President. The President's authority to fill vacancies where no provision for succession is made in the Branch By-laws derives from Article 4, Section 3 of the CGSFB. That section specifically states that "the Branch President may appoint the successor *until the next regular election.*" (Emphasis supplied.)

#### **THOMAS CSER, ALLENTOWN, PA, BRANCH 274**

**October 20, 2016 (6283)**

Your email to Secretary-Treasurer Nicole Rhine, dated October 14, 2016, has been referred to me for reply, insofar as your letter raises issues involving interpretation of the NALC Constitution. Specifically, your email requests clarification of the rules governing eligibility of members to be nominated for office in Branch 274.

At the outset, I must advise that I cannot resolve issues concerning the eligibility of the individual members referenced in your email, based

on the limited information which you have provided. I can advise you as to the relevant constitutional principles, which the Branch must apply to the particular facts presented.

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).

In answer to your first question, there are no provisions rendering members ineligible for nomination based on a previous attempt to withdraw from union membership. So long as the candidate is a member at the time of nomination, he/she remains eligible.

Your second question is whether in the absence of dues deductions, a member who owes back dues would remain eligible to be a candidate for Branch office. The answer to that question depends on whether the individual has forfeited membership in the NALC under Article 7, Section 4 of the CGSFB.

Under Article 7, Section 4 of the CGSFB any member who fails to pay monthly dues for 30 days must forfeit his/her membership. Article 7, Section 4 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 274 has ever acted to extend the 30 day grace period.

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 letter does not indicate whether Branch 274 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 a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures.

**RICARDO GUZMAN, SAN DIEGO, CA,  
BRANCH 70**

**October 26, 2016 (6287)**

This is in reply to your email, dated October 20, 2016, requesting an interpretation of the last sentence of Article 10, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Specifically, you ask what should happen if a Branch rejects a motion to continue a vote on charges until the next meeting.

Please be advised that it is not possible to answer this question in the abstract. Each situation would have to be examined in light of the particular facts presented. I can, however, provide the following general guidance.

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 provides 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.

If the Branch were to disapprove a motion to continue, a critical question would be whether the committee has completed its investigation. If it has, then the denial of a continuance motion would normally mean that the committee would be obliged to present its report to the Branch, and the Branch would be required to vote on the charges.

If the committee has not completed its investigation, the issue would be more complex. On the one hand, the charging party does have the right to have his/her charges considered and voted upon by the Branch. On the other hand, the charged party has the right to be treated fairly in accordance with Article 10's procedures. The Branch's denial of a continuance, therefore, could be the subject of an appeal by either party to the National Committee on Appeals under Article 11 of CGSFB.

Finally, prior rulings have recognized that circumstances sometimes arise which prevent an investigating committee from completing its investigation within the time frame provided by Article 10, Section 1. For example, essential witnesses may have been unavailable prior to the meeting, or the committee may not have had time to complete a review of extensive documentation. The rulings have instructed committees

in these circumstances to complete their investigations as soon as possible. A Branch can also seek dispensation from the National President to extend the time needed to investigate and vote on charges.

**FRANCES LOPEZ, SAN FRANCISCO, CA,  
BRANCH 214**

**October 26, 2016 (6288)**

This is in reply to your letter, dated October 17, 2016, in which you ask four questions concerning the election of officers in Branch 214. The answers to your questions are set forth below.

**1. Access to telephone numbers**

Please be advised that the NALC Constitution and the NALC Regulations Governing Branch Election Procedures (RGBEP) do not address the question whether a Branch may provide candidates with access to members' telephone numbers. Accordingly, the matter is left to the Branch to decide. However, the Branch must treat all candidates equally, so that if one candidate is granted access to telephone numbers then all other candidates must be granted access.

**2. Voting rights of 204b's**

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, 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 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. Ac-

cordingly, if a 204b returns to a bargaining unit assignment, the member would at that point have the right to vote in the election.

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 RGBEP.

**3. Voting rights of members who are in arrears in their dues**

The question whether members who are in arrears in their dues payments may vote depends 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 214 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 214 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 RGBEP.

#### 4. Campaign posting

Generally speaking, neither the NALC Constitution nor the RGBEP contain any rules regulating the content of campaign literature, including internet postings. However, please understand that this guidance should not be read to express a view as to any issues that could be raised in a post-election appeal.

### **JONATHAN LOPEZ, BROWNSVILLE, TX, BRANCH 1456**

**October 26, 2016 (6290)**

This is in reply to your email on October 21, 2016, concerning a member who apparently applied for a supervisory position in May, 2016. You now ask whether this individual is eligible to be a candidate for Branch President in the upcoming Branch 1456 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.)

This constitutional language prohibits mem-

bers 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 this rule.

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 principle. The Branch's determination is subject to appeal.

### **MARI THOMSON, PINE VALLEY, CA, BRANCH 70**

**October 26, 2016 (6291)**

This is in reply to your several emails, sent October 21, 2016, in which you ask numerous specific questions concerning charges that have been filed against you that are presently under investigation.

While I appreciate your concerns, I must advise that it would be entirely inappropriate for me to respond to the specific questions that you pose, particularly in light of the limited information before me. I can offer the following general guidance.

#### 1. Schedule of hearing

The role of the investigating committee, as clearly set forth in Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), 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 above language vests the committee with discretion to schedule the hearing times, although in exercising this discretion it must take care to ensure that the parties are given a fair opportunity to exercise their rights to be heard, to present evidence, and to cross-examine witnesses. The charged or charging party are certainly entitled to request that the hearing be scheduled on his/her non-scheduled day or during non-work hours, and the committee would have discretion to honor that request. However, a party who elects not to attend a scheduled hearing would run the risk of waiving his/her Article 10 rights. The failure of either party to attend the hearing would not bar the committee from completing its investigation based on the evidence available to it and reporting to the Branch.

At the same time, any member who is the subject of charges is entitled to a fair hearing. If a charged party believes that the investigating committee has abused its discretion so as to compromise the fairness of the hearing, he/she should present that argument to the Branch during the course of presenting his/her defense at the meeting at which the vote on the charges is taken. This could include an argument that the committee abused its discretion with respect to the times that hearings were scheduled. If necessary, such an argument could be raised as an issue in any appeal to the National Committee on

Appeals following the Branch's decision.

#### 2. Compensation for LWOP

There is no language in the Constitution which addresses compensation for committee members or witnesses. The issue of compensation is entirely a local matter which must be resolved, at least in the first instance, at the Branch level. The decisions of officers of the Branch may be appealed to the Branch President, and his decision may be appealed to the members in accordance with Article 11, Section 1 of the CGSFB. The Branch's decision is subject to appeal to the National Committee on Appeals under Article 11, Section 2 of the CGSFB.

Similarly, the question whether a steward would be entitled to payment for participation in an investigatory committee hearing depends on the interpretation of the Branch 70 By-laws. This again is an issue for the Branch to resolve, subject to appeal.

#### 3. Consequences of suspension from membership

Generally speaking, during the term of a suspension under Article 10 a suspended member is precluded from participating in union affairs. For example, he or she may not attend union meetings, vote in union elections, or run for or fill any elective or appointive positions within the union.

Previous rulings have held that during the term of a suspension or expulsion the Branch is not required to act on charges previously filed by the suspended or expelled member. However, if the member appeals to the National Committee on Appeals, and the Committee reverses the suspension or expulsion, the member will have the right to resubmit the charges to the Branch.

#### 4. Article 16 of the National Agreement

As a general principle, Article 16 of the National Agreement is not directly enforceable through the NALC Constitution. However, a party might argue that the principles embodied in Article 16 are relevant to the question whether a member has violated the Constitution or otherwise engaged in misconduct within the meaning of Article 10, Section 1 of the CGSFB, or whether a proposed penalty is appropriate.

### **WELDON THOMSON, PINE VALLEY, CA, BRANCH 70**

**October 26, 2016 (6292)**

This is in reply to your letter, dated October 23, 2016, inquiring as to the relationship between the charge procedure provided by Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) and the discipline process set forth in Article 16 of the National Agreement.

At the outset, I appreciate the very thoughtful arguments articulated in your letter. Nonetheless, I must note that the actual language of the Constitution does not make any reference to the National Agreement. Accordingly, as previous rulings have also observed, Article 16 of the National Agreement is not directly enforceable through the NALC Constitution.

This does not necessarily mean that the basic

principles reflected in Article 16 are irrelevant. For example, a party might argue that those principles are relevant to the question whether a member has violated the Constitution or otherwise engaged in misconduct within the meaning of Article 10, Section 1 of the CGSFB, or whether a proposed penalty is appropriate. Those are questions which may fairly be addressed to the members when the charges are considered.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to express any view with respect to charges now pending in Branch 70.

**PAUL MARKS, BROOKLYN, NY, BRANCH 41  
October 27, 2016 (6293)**

This is in reply to your email, sent October 26, 2016, requesting guidance as to whether members who have been detailed to 204b assignments may vote in the upcoming mail ballot election of officers in Branch 41.

Please be advised that this issue has been addressed in numerous presidential rulings. The applicable principles may be summarized as follows.

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, 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 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. Ac-

cordingly, if a 204b returns to a bargaining unit assignment, the member would at that point have the right to vote in the election.

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 (RGBEP).

**CLYDE EVERETTE, AHSOKIE, NC, BRANCH  
5467**

**October 27, 2016 (6294)**

This is in reply to your letter, received by my office on October 24, 2016, requesting dispensation permitting Branch 5647 to conduct a special election. According to your letter, the reason for this request is that the Branch does not have a Branch President.

Your letter does not contain sufficient information to show why a special election is necessary. Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches expressly requires that vacancies in the office of Branch President be filled by the Vice President (or Executive Vice President). Accordingly, the Vice President of Branch 5467 should succeed to the presidency until the next regular election.

However, if the Branch does not have a Vice President, or the Vice President is incapable or otherwise unwilling to become President, then a special election would be warranted. Accordingly, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 5467 dispensation to conduct a special election if it does not have a Vice President or if the Vice President cannot serve as President.

**GERRY SCHLIMME, ALLENTOWN, PA,  
BRANCH 274**

**October 28, 2016 (6295)**

This is in reply to your letter, received by my office on October 25, 2016, in which you seek guidance concerning the conduct of the election of officers in Branch 274. The discussion below addresses each issue in the order presented in your letter.

**1. Completion of ballots**

There is no requirement that members vote for each officer or steward position on the ballot. In the example you cite, if there are four candidates for three steward positions, members may choose to vote for fewer than three. As you suggest, the top three vote getters would be the winners of the election. As a general rule, members are not required to vote for every office on the bal-

lot. If a member only voted for Branch President, that vote should still be counted.

**2. List of members in “good standing”**

The National Office does not maintain a list of members in good standing for each Branch. However, it is not clear why you would need such a list. Article 5, Section 3 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) states that “[a]ll regular members shall be entitled to one vote for each office or position to be filled.” Article 2, Section 2 of the CGSFB defines “good standing” as “paying all fines, assessments, and dues.” As previous rulings have recognized, a member would not lose the right to vote in a branch election 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.

**3. Alleged campaign violations**

It would be entirely inappropriate for me to comment on the alleged campaign impropriety described in your letter. I can advise that the Branch Election Committee does not have the authority to disqualify a candidate based on alleged campaign violations. Any such violations may be addressed, if necessary, after the election through the appeal procedure provided by Section 21 of the NALC Regulations Governing Branch Election Procedures.

**RONALD TROUM, FORT LAUDERDALE, FL  
BRANCH 2550**

**November 3, 2016 (6303 and 6305)**

This is in reply to your letter, faxed to my office on November 2, 2016, inquiring whether a candidate for Branch office has the right to inspect the Branch membership list and the Form 1189’s submitted by retiree members.

As previous rulings have recognized, NALC Branches are not required to provide candidates with direct access to the Branch membership list. The same is true for the Form 1189.

At the same time, granting such access is not prohibited. The Branch has discretion to permit candidates to inspect their membership lists. However, if a Branch does provide access to one candidate, then it must provide equal access to all other candidates. See Section 9.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) and accompanying Comments.

**RODRIGO GRAMATA, BROWNSVILLE, TX,  
BRANCH 1456**

**November 9, 2016 (6306)**

This is in reply to your email, sent November 6, 2016, in which you assert that Branch 1456 did not provide adequate notice of its nominations of officers.

While I certainly appreciate your concerns, I must advise that it would be entirely inappropriate for the National Union to intervene in this matter at this time. All objections to the conduct of an election, including issues relating to the notice of nominations, must be brought in the form of

a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. The initial decision of the Election Committee is subject to appeal to the Branch Executive Board and the Branch. An adverse decision by the Branch may be appealed to the National Committee on Appeals.

**FRANCES LOPEZ, SAN FRANCISCO, CA, BRANCH 214**

**November 9, 2016 (6307)**

This is in reply to your letter, dated November 1, 2016, concerning a request by a candidate in the current election of officers in Branch 214 to meet with four of the five members of the Election Committee.

Please be advised that there are no provisions in the NALC Constitution or the NALC Regulations Governing Branch Election Procedures which impose any restrictions on communications between candidates and members of the Election Committee. The Committee is free to decide for itself whether or not to meet with the candidate, which members of the Committee would attend any meeting, and whether the opposing candidate should be permitted to attend. Obviously, any decisions by the Committee affecting the conduct of the election or the rights of the candidates should be communicated to all candidates.

The issue of compensating members of the Election Committee for time spent meeting with candidates is completely up to the Branch to decide, consistent with its By-laws.

**COLLIN JOHNSTON, FREDERICK, CO, BRANCH 1105**

**November 14, 2016 (6308)**

This is in reply to your letter, dated November 4, 2016, concerning the current situation in Branch 1105. According to your letter, Branch President Kimberly Kelley and Vice President and Shop Steward Christina Borgman have both resigned. You have also resigned as steward. In the meantime, an election of new officers is scheduled for the Branch's meeting on November 15, 2016, with the installation to take place at the January meeting.

Given these circumstances, I agree with your suggestion that the new officers be installed immediately upon election on November 15, in order to ensure continuity of leadership and representation. Therefore, pursuant to my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 1105 dispensation to install its new officers at the November 15 meeting, notwithstanding any contrary provisions of its By-laws.

**PATRICK DANIEL, ATHENS, GA, BRANCH 588**

**November 15, 2016 (6322)**

This is in reply to your letter, dated November 3, 2016, requesting dispensation to redo Branch 588's recent mail ballot election of officers and stewards. According to your letter, the initial mail ballot suffered from serious errors including the

absence of secret ballot envelopes and a request for signatures on the ballot.

I agree that the circumstances described in your letter justify a re-mailing of corrected ballots and instructions. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution I hereby grant Branch 588 dispensation to mail out corrected ballots and to extend the time of the election beyond any deadlines provided by the Branch By-laws. The initial ballots that the Branch has received should not be counted but should remain sealed and retained by the Branch pending any post-election appeals.

**MARI THOMSON, PINE VALLEY, CA, BRANCH 70**

**November 16, 2016 (6323)**

This is in reply to your email, sent November 11, 2016, concerning the status of an appeal you have submitted to Branch 70 and other issues which you intend to challenge by appeal.

It would be inappropriate for me to comment on your specific appeals, which must ultimately be resolved by the National Committee on Appeals. I can advise that Article 11, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires a Branch to read an appeal at the first meeting following its receipt, and to forward to the National Committee on Appeals both a copy of the appeal and the Branch's reply within twenty days thereafter. The failure of the Branch to read the appeal at the meeting does not relieve it of the obligation to submit the appeal and the reply to the Committee in a timely manner.

In addition, as a general rule, a member who has been expelled from membership by vote of the Branch under Article 10, Section 4 of the CGSFB may appeal the expulsion to the National Committee on Appeals. However, an expelled member does not have the right to appeal other decisions of the Branch which are not related to the expulsion.

**CLAUDIA MARTIN, COMMERCE CITY, CO, BRANCH 47**

**November 17, 2016 (6324)**

This is in reply to your email, sent November 9, 2016, inquiring whether a member of Branch 47 is eligible to be a candidate for steward at the Stockyards station. According to your email, this individual was assigned to another station following his conversion to career status, but is presently working on a route at Stockyards on which he opted.

Please be advised that there are no provisions in the Constitution which specifically address this question. In particular, the NALC Constitution does not contain any provisions prohibiting the election of a member from one station to serve as a steward in another station. Rather, 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.

In light of the foregoing, the Branch By-laws would control the answer to your question. I do not know whether the Branch 47 By-laws contain any relevant provisions. But this would be an issue for the Branch leadership and the members. The interpretation and application of the Bylaws is the responsibility of the Branch in the first instance.

**JOSE SEQUERA JR., BROWNSVILLE, TX, BRANCH 1456**

**November 17, 2016 (6329)**

This is in reply to your letter, dated November 5, 2016, in which you assert that Branch 1456 did not provide adequate notice of its nominations of officers. By copy of this letter, I am also replying to the other members who submitted similar statements which were included with your letter.

As I previously advised Brother Rodrigo Gramata, I do appreciate your concerns. However, it would be entirely inappropriate for the National Union to intervene in this matter at this time. All objections to the conduct of an election, including issues relating to the notice of nominations, must be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. The initial decision of the Election Committee is subject to appeal to the Branch Executive Board and the Branch. An adverse decision by the Branch may be appealed to the National Committee on Appeals.

**TIMOTHY LEGGO, OCALA, FL, BRANCH 1103**

**November 21, 2016 (6330)**

This is in reply to your letter, dated November 2, 2016, requesting dispensation permitting Branch 1103 to postpone its nominations of officers from the November meeting to the January, 2017 meeting. According to your letter, this request is necessitated by the fact that the Branch was unable to send out timely notice because it did not have an updated mailing 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.

However, your letter appears to be based on a misunderstanding of the applicable time limits.

Article 5, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches and Section 5.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) require that a notice of nominations and election be sent by mail to each member of the Branch 45 days before the election, not 45 days before nominations. Section 6.1 of the RGBEP provides that the notice of nominations must be sent out 10 days before the date nominations are held. Accordingly, if the Branch can send timely notice permitting nominations to be conducted at

its December meeting, you should do so. If this is not possible, then the Branch may conduct nominations at the January meeting.

#### **ERIC SLOAN, DECATUR, GA**

**November 29, 2016 (6337)**

This is in reply to your letter, dated November 21, 2016, requesting dispensation permitting Branch 73 to postpone its installation of officers from its December 8, 2016 meeting to January 12, 2017. This request is based on the fact that you will be attending the NALC Leadership Academy during the December 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.

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

**November 28, 2016 (6341)**

This is in reply to your email, sent November 22, 2016, concerning the eligibility of Brother Tony Lee to be a candidate for office in Branch 214 in the current election. According to your letter, Brother Lee's bid assignment is in the San Lorenzo Post Office, so that his membership should be in Branch 1111.

At the outset, it would be inappropriate for me to resolve this matter based on the limited information in your letter. I can provide the following guidance.

First, a member of Branch 1111 is not eligible to serve as an officer in Branch 214, notwithstanding the DUO situation involving the San Lorenzo and San Leandro Post Offices.

Second, my letter to you, dated January 5, 2012, advised that both Branches would coexist in the consolidated South San Leandro installation. I further advised that the membership of all carriers would initially remain in their original Branch, but that *a successful bid into a zone in a different Branch will automatically result in a change of Branch membership.*

Third, NALC records indicate that Brother Lee is currently paying dues to Branch 214.

Fourth, my letter made clear that it was the responsibility of both Branches to notify the NALC Membership Department if a member bid out of one branch's zone into that of the other, so that his/her dues could be transferred.

Fifth, the status of Brother Lee's branch membership would not necessarily affect the eligibility of a candidate whom he nominated, particularly if there was no objection to the nomination when it was made.

Finally, if Sister Gamble is entitled to membership in Branch 214 by virtue of her bid assignment, then she may be vote in the election.

#### **MARLANA BERNHEISEL, CHARLOTTE, MI, BRANCH 122**

**November 29, 2016 (6340)**

This is in reply to your letter, dated November 19, 2016, requesting guidance as to the rights of members who have accepted management positions, including 204bs, to vote in Branch elections.

Please be advised that this issue has been addressed in numerous presidential rulings. The applicable principles may be summarized as follows.

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, 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 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. Accordingly, if a 204b returns to a bargaining unit assignment, the member would at that point have the right to vote in the election.

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 (RGBEP).

Finally, your letter asks for clarification of the phrase *present members who have left the Postal Service*. Please be advised that this provision generally refers to members who separate from the Postal Service prior to retirement. For example, an active member who resigns from the Postal Service before he/she retires is no longer eligible to retain membership in the NALC.

#### **BEKI SERWACH, CENTER LINE, MI, BRANCH 437**

**November 30, 2016 (6344)**

This is in reply to your email, sent today, requesting guidance with respect to your pending appeal from the recent election of officers in Branch 4374. In response to your two specific questions, please be advised of the following.

First, the procedure for submitting an appeal from the decision of the Election Committee to the Executive Board is set forth in Section 21.2 of the NALC Regulations Governing Branch Election Procedures. Section 21.2 provides that the appeal to the Executive Board *must be submitted in writing by certified mail, return receipt requested*. The regulation does not specify a particular officer to whom the appeal must be addressed. Accordingly, you may address the appeal in any manner which ensures that the appeal will be presented to the Board in a timely manner.

Second, when an appeal is made from a decision of the Election Committee to the Executive Board of the Branch, the appeal is to be decided by whichever members of the Board are in office at that time. As previous rulings have recognized, nothing in the regulations or the NALC Constitution prohibits any member of the Executive Board from participating in making the decision as to how to respond to the Election Committee ruling. The fact that Executive Board members are also appellants, respondents, or potential witnesses does not disqualify them.

#### **GERALD PONCIN, NEW BUFFALO, MI**

**December 1, 2016 (6342); cc NBA, RAA Troy Clark**

This is in reply to your email, sent November 21, 2016, concerning the situation in Branch 560, Benton Harbor, MI. The information you and Regional Administrative Assistant Troy Clark have provided me clearly shows that urgent action is necessary.

The first priority is to conduct a special election so that a functioning slate of officers can take charge of the Branch as soon as possible. In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 560 dispensation to conduct a special election.

By copy of this letter, I am directing National Business Agent Pat Carroll to designate a representative from his office to assist the Branch in conducting the election. In addition, this representative is hereby authorized to appoint a certified steward (pending an election); to take temporary control of the Branch bank accounts until new officers are installed; to facilitate meetings concerning the adoption of new By-laws; and to take any other necessary and appropriate actions

to insure that the Branch fulfills all its legal and representational responsibilities.

**MICHAEL MEEHAN, GREENWOOD LAKE, NY  
December 1, 2016 (6331)**

This is in reply to your letter, received by my office on November 17, 2016, concerning various issues in Branch 5229.

While I appreciate your concerns, I must advise that it would not be appropriate for me to comment on the specific matters described in your letter, particularly since I only have your side of the story before me. I can provide the following general guidance.

Regarding your apparent request to review Branch financial records, 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.

The denial of a request to inspect records may be appealed to the members of the Branch under Article 11, Section 1 of the CGSFB. The Branch's decision may be appealed to the National Committee on Appeals under Article 11, Section 2 of the CGSFB.

With regard to your assertion that Branch 5229 did not provide adequate notice of its nominations of officers, it would be entirely inappropriate for the National Union to intervene in this matter at this time. All objections to the conduct of an election, including issues relating to the notice of nominations, must be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. The initial decision of the Election Committee is subject to appeal to the Branch Executive Board and the Branch. An adverse decision by the Branch may be appealed to the National Committee on Appeals.

The remainder of your letter concerns workplace issues. By copy of this letter, I am requesting that National Business Agent Larry Cirelli investigate, as necessary, and respond.

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

**December 1, 2016 (6345)**

This is in reply to your letter, dated November 29, 2016, regarding the membership status of Tony Lee who has just been elected as an officer of Branch 214.

In light of the information you have provided, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant special dispensation permitting Brother Lee to remain a member of Branch 214, despite the fact that his current bid assignment would normally require membership in Branch 1111. This dispensation will remain in effect only so long

as Brother Lee occupies an elective office within Branch 214.

This dispensation does not otherwise modify my letter, dated January 5, 2012, concerning the San Lorenzo-South San Leandro DUO situation. (A copy of that letter is enclosed.) As I indicated in the letter, the Branch membership of each carrier in the DUO is determined by the location of his/her bid assignment. It does not matter whether the carrier was placed in that assignment following a successful voluntary bid or was involuntarily placed in a residual vacancy. In addition, it is the responsibility of both Branches to notify the NALC Membership Department whenever a change in a member's assignment requires a change in Branch membership. The only reason that Brother Lee has remained in Branch 214 is because neither Branch notified Membership when he was assigned to San Lorenzo.

Notwithstanding the foregoing, I have concluded that it is in the best interest of all concerned going forward to permit Brother Lee to serve in the office to which he was just elected. Accordingly, I have granted dispensation so that he may do so.

**PHILLIP MCKINNON, ROCKY MOUNT, NC,  
BRANCH 1321**

**December 6, 2016 (6347)**

This is in reply to your letter, received by my office on November 28, 2016, requesting dispensation permitting Branch 1321 to hold new nominations and election of its officers. According to your letter, an individual was nominated and elected by acclamation, but was later found to be *in violation of Article 5 of our Constitution*. I assume that the individual either held or applied for a supervisory position and was thus disqualified from holding office by Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches.

Your letter does not indicate why an entirely new election is necessary. The Branch may conduct nominations and a special election solely for the affected position. In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the necessary dispensation. The successful candidates for all other officer positions may be installed and may serve their terms of office.

**RONALD TROUM, FT. LAUDERDALE, FL,  
BRANCH 2550**

**December 7, 2016 (6354)**

This is in reply to your letter, dated November 29, 2016, requesting guidance with respect to a pending election appeal in Branch 2550.

Generally speaking, the results of an election stand while the validity of the election is challenged through the various steps of the appeal process. However, as I understand your letter, the issue in the appeal under consideration in Branch 2550 is whether certain ballots should be counted. Thus, the question is not whether the election process was valid but, rather, who won the election.

Previous rulings have held that in the circumstances described above the result of the election, as determined by the Election Committee should stand while appeals are still pending. To rule otherwise would create the possibility that two candidates would flip flop in and out of office at each stage of the appeal procedure. Accordingly, the winner determined by the Election Committee should be installed and should hold office during the appeal process. A new installation would be required only if:

(1) the Branch decides to overturn the Election Committee's decision and no appeal is taken to the National Committee on Appeals within the 20-day time period following the Branch decision as provided by Section 21.41 of the NALC Regulations Governing Branch Election Procedures; or

(2) an appeal is taken to the National Committee on Appeals, and the Committee determines that the other candidate should prevail.

**AMY SIMMONS, GALESBURG, IL, BRANCH  
88**

**December 7, 2016 (6351)**

This is in reply to your letter, dated November 22, 2016, that Branch 88 inadvertently failed to send out timely notice of its nominations for delegates to the Illinois State Association Convention to members in Monmouth, IL. According to your letter, nominations should have taken place on November 17.

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 88 dispensation to postpone its nominations of state delegates to a later date. Timely notice of this change must be provided to all members including those employed at Monmouth.

However, your letter appears to be based on a misunderstanding of the applicable time limits.

Article 5, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches and Section 5.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) require that a notice of nominations and election be sent by mail to each member of the Branch 45 days before the election, not 45 days before nominations. Section 6.1 of the RGBEP provides that the notice of nominations must be sent out 10 days before the date nominations are held. Accordingly, if the Branch can send timely notice permitting nominations to be conducted at its December meeting, it should do so. If this is not possible, then the Branch may conduct nominations at the January meeting.

**JEREMIAH DICKSON, FORTUNA, CA,  
BRANCH 348**

**December 9, 2016 (6353)**

This is in reply to your letter, faxed to my office on November 30, 2016, requesting a ruling as to the procedure for requesting absentee ballots in the upcoming election in Branch 348. In response to your specific questions, I can provide the following general guidance.

Absentee ballots must be made available under Section 11.5 of the NALC Regulations Govern-

ing 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.

Similarly, RGBEP Section 5.21 requires that the Branch's notice of nominations and elections *state who can request an absentee ballot, where such requests must be received and when requests must be made.* The regulations do not mandate a particular procedure for requesting absentee ballots. The Branch has discretion to establish any reasonable procedure which will ensure that every member who is entitled to vote absentee has a fair and timely opportunity to request a ballot.

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 Election 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.

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

**December 12, 2017 (6352)**

This is in reply to your letter, dated October 31, 2016, which was received by my office on November 28. The letter concerns your dispute with then-Branch 233 President Dennis Blank regarding the preparation of minutes.

The dispute described in your letter is an internal Branch matter. It would be inappropriate for me to comment on your allegations against Brother Blank. However, I can offer the following guidance with respect to the constitutional principles regarding the minutes of Branch meetings.

In general, 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, in appropriate circumstances the Branch President could direct that changes be made in the Secretary's draft of the minutes prior to the reading at the Branch meeting.

Ultimately, it is up to the Branch to determine whether, and if so how, minutes may be amended. A vote by the members to amend minutes may be challenged in the form of an appeal to the National Committee on Appeals under Article 11 of the CGSFB.

Finally, there is nothing in the NALC Constitution which would prohibit a Branch from waiving the reading of its minutes, if that is the will of the membership.

### **REBEKAH SERWACH, CENTERLINE, MI, BRANCH 4374**

**December 29, 2016 (6373)**

This is in reply to your two emails, sent December 27 and 28, 2016, in which you ask guidance with respect to the conduct of a re-run election of officers and stewards to be conducted in Branch 4374. According to your emails, the Branch Executive Board voted in November to re-run the regular election based on an appeal which you filed.

At the outset, I would caution that the re-run election process should not be commenced unless the appeal process has been exhausted at the Branch level. A decision by the Branch Board does not necessarily constitute the final decision of the Branch. Under Section 21.3 of the NALC Regulations Governing Branch Election Procedures (RGBEP), the decision of the Executive Board to order a re-run election is subject to appeal to the Branch. If no appeal was filed, then the Executive Board's decision does stand and must be implemented. However, if there was a timely appeal of the Board's decision to the Branch, the re-run must be deferred until the appeal is decided by the Branch. The vote of the Branch is the last word at the Branch level.

With respect to your specific questions, please be advised of the following.

1. **Time frame.** As you recognize, Section 5.1 of the RGBEP requires that the Branch provide notice by mail of both the nominations and the election at least 45 days before the election. This provision applies only to the regularly scheduled nominations and election of officers. The 45 day requirement does not apply to re-run elections which do not involve new nominations. Previous rulings have permitted Branches to provide 15 days notice of a re-run election, which is the minimum legal requirement.

However, if the Branch will be conducting a mail ballot, Section 14.2 of the RGBEP, will apply. This section provides for a minimum 20 day balloting period when elections are conducted by mail. Therefore, in a re-run election conducted by mail, the Branch must mail ballots no later than 20 days before the date ballots must be returned. An appropriate notice of the re-run election may be mailed with the ballots. The required information may be stated on the ballot itself, if it is more

convenient to do so.

2. **Election Committee.** The Branch President may appoint a new election committee to conduct the re-run. 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 re-run is held, or the President may leave the previously appointed committee in place.

3. **Candidate withdrawal.** Your emails also ask me to address the consequences of a decision by a nominee for an officer or steward position to withdraw. While I cannot provide a specific answer, I can offer the following general guidance.

Previous rulings have established that a nominee who wishes to decline a nomination for Branch office 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. Normally, this requirement would continue to apply to a re-run election for Branch officers.

The situation may be different for steward elections. There are no Constitutional rules or NALC regulations which address this issue in the context of an election of a steward in a particular office. As previous rulings have recognized, 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). Accordingly, the Branch is free to resolve the issue described in your email in any manner that is consistent with its By-laws.

Finally, your second email asks whether the Executive Board properly decided to re-run the election for all offices, insofar as you were the only appellant. Again, it would be inappropriate for me to rule on the specific appeal under consideration in Branch 4374. The scope of any remedy for an election violation is a matter which must be addressed by the Branch bodies considering the appeal. I can advise that, as a general rule, a re-run election would be required for each office that may have been affected by the election irregularities at issue.

### **MICHAEL HENDREN, CENTERLINE, MI, BRANCH 4374**

**December 30, 2016 (6374)**

This is in reply to your letter, which you sent to me by email on December 29, 2016, concerning the Branch 4374 Executive Board to sustain President Serwach's appeal of the recent election of officers and to conduct a re-run election.

While I appreciate your concerns, I must advise that it would be entirely inappropriate for me to comment on an ongoing dispute within the Branch. However, I am enclosing a copy of my most recent letter to Sister Serwach, dated December 29. Please note that I specifically advised that the re-run election should not be

commenced unless the appeal process has been exhausted at the Branch level. A decision by the Branch Board does not necessarily constitute the final decision of the Branch. Under Section 21.3 of the NALC Regulations Governing Branch Election Procedures, the decision of the Executive Board to order a re-run election is subject to appeal to the Branch. If there is a timely appeal of the Board's decision to the Branch, the re-run must be deferred until the appeal is decided by the Branch. The Branch's decision is subject to appeal to the National Committee on Appeals.

**RICKEY SARAZIN JR., PHOENIX, AZ,  
BRANCH 576**

**January 5, 2017 (6382)**

This is in reply to your letter, dated December 19, 2016, concerning pending charges against Branch 576 President Phil Dufek.

While I appreciate your concerns, I must advise that it would be entirely inappropriate for me to comment on any of the issues raised in your letter. Charges must be investigated and decided at the local level, in accordance with the procedures provided by Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Your requests for written documents and other information should be directed to the investigating committee. Any objections you have to the committee's conduct of the investigation, including its responses to your requests, may be raised in an appeal to the National Committee on Appeals under Article 11 of the CGSFB after the Branch votes on the charges.

**THOMAS ALARCON AND LEO ANDAVAZO,  
HOBBS, NM, BRANCH 3727**

**January 10, 2017 (6383 and 6384)**

This is in reply to your email, sent January 3, 2017, requesting a ruling to allow you, following your installation as President of Branch 3727, to appoint either Brother Leo Andavazo or Sister Laura Lopez to the position of shop steward. By copy of this letter, I am also replying to an email that Brother Andavazo sent on December 20, 2016 to Secretary-Treasurer Nicole Rhine concerning the same issue.

At the outset, I appreciate your view that Brother Andavazo and Sister Lopez are the best candidates available. Nonetheless, I simply cannot grant your request to *clear* you to appoint either of them as steward. Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) 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.) There are no exemptions from this rule. If either member applied for a supervisory position, they would be disqualified from serving in any office or position in the Branch for two

years following the withdrawal of their applications. Moreover, in response to a question in Brother Andavazo's email, the disqualification applies regardless of whether the member is elected or appointed to the position.

At the same time, the facts described in the two emails are insufficient to show that the positions Brother Andavazo and Sister Lopez applied for were *supervisory* positions. Not all higher level or management positions are supervisory within the meaning of Article 5, Section 2. Generally speaking, a position is considered supervisory 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 the management positions Brother Andavazo and Sister Lopez applied for did not entail such authority, then they would remain eligible to serve as a steward.

It will be your responsibility, as Branch President, to determine whether the management positions in question were supervisory. If they were, the two members will be disqualified. If they were not supervisory, then you may appoint them.

In addition, Brother Andavazo's email raises a separate issue as to whether Sister Lopez actually applied for a supervisory position. According to the email, Sister Lopez merely took an exam which she did not pass.

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. Taking an examination may or may not constitute an application for a supervisory position, depending on the circumstances. Local practices may be relevant.

The two emails do not provide sufficient information as to the nature of the application process to permit me to make a definitive ruling with respect to Sister Lopez. For example, the emails do not indicate whether the Postal Service treats individuals who pass the test as applicants for a supervisory position, or whether additional steps are required to complete the application.

If the Postal Service does consider anyone who takes the exam as an applicant for a supervisory position, then it would not matter that Sister Lopez ultimately did not pass. She would be ineligible to serve as a steward under Article 5, Section 2 because she did apply for a supervisory position. By contrast, if management does not treat those who take the test as applicants, then it would not matter if she passed the test. If additional steps are necessary to complete the application, then Sister Lopez would not be disqualified until she had completed these steps.

In any event, it is for the Branch to determine, in the first instance, whether or not a member has in fact applied for a supervisory position. The Branch should investigate this matter and, if necessary, discuss the situation with management to clarify whether an individual who takes the test in question is considered to be an applicant. If the Branch concludes that in the present case taking

the exam was not tantamount to an application for a supervisory position, then Sister Lopez will remain eligible to be a candidate for and to serve as a Branch steward.

**REBEKAH SERWACH, GROSSE POINTE, MI,  
BRANCH 4374**

**January 12, 2017 (6389)**

This is in reply to your email, sent January 4, 2017, concerning the vote at the Branch 4374 Membership Meeting on January 3 to conduct a re-run election.

As indicated in my previous letter to you, a re-run election may be commenced when the appeal process has been exhausted at the Branch level. Accordingly, it appears that the re-run may go forward.

I caution that the Branch's decision remains subject to appeal to the National Committee on Appeals. If the Committee upholds the appeal, the result of the original election may be reinstated. Accordingly, the Branch may elect to defer the re-run until the time to appeal to the National Committee has expired, or, if an appeal is submitted, until the National Committee issues its decision. However, such a deferral is not required.

If the Branch proceeds with the re-run election, and the Branch's decision is appealed, the results of the re-run election will stand until such time as the Branch decision may be reversed by the National Committee or, if there is a further appeal, by the National Convention. I would add one caveat. Any aggrieved members would have the right to file a post-election appeal challenging the conduct of the re-run election.

**HOMAR HERNANDEZ, JR., SAN ANTONIO,  
TX, BRANCH 421**

**January 12, 2017 (6390)**

This is reply to your fax letter, received by my office today, in which you ask whether Branch 421 may permit members to speak at a meeting at which it will consider charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

Contrary to your suggestion, Article 10 has not been changed. Article 10 does not contain any language either requiring or prohibiting debate or discussion of charges at the Branch meeting following receipt of the investigating committee's report. Although Branches are not required to allow members to debate charges, previous rulings have recognized that Branches have discretion to permit such debate, in accordance with their By-laws, past practices, and the will of the members.

Of course, 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.

**JONATHAN BRACKETT, SANFORD, ME,  
BRANCH 1448**

**January 13, 2017 (6386)**

This is in reply to your email, sent January 10, 2017, advising that the member who was recent-

ly elected President of Branch 1448 has decided not to serve and is unwilling to be installed. You now ask how the Branch should proceed.

At the outset, the losing candidate for President may not now be declared the winner of the election and installed as suggested in your email. Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (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 member who was elected President declines to be installed. Upon assuming the presidency, the successful Vice Presidential candidate would then have the authority to fill the vacant Vice President position by appointment, unless the Branch By Laws provide for succession to that office in accordance with Article 4, Section 2 of the CGSFB, or provide for a special election.

**BRENDA FRANCES, FT. LAUDERDALE, FL, BRANCH 2550**

**January 24, 2017 (6396)**

This is in reply to your letter, which was faxed to my office on January 17, 2017, in which you protest the outcome of the 2016 election for President of Branch 2550.

I do appreciate your concerns. However, it would be entirely inappropriate for the National Union to intervene in this matter at this time. All objections to the conduct of an election, including objections to the counting of votes, must be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. A member cannot by-pass the appeal procedure by seeking a ruling from the National President.

In addition, previous rulings have consistently recognized that the results of an election stand while the validity of the election is challenged through the various steps of the appeal process. Accordingly, I must decline to comment on the substance of your allegations.

**JERREL KINLOCH, FT. LAUDERDALE, FL, BRANCH 2550**

**January 24, 2017, (6397)**

This is in reply to your letter, dated January 17, 2017, seeking guidance as to a request from five members of Branch 2550 to review material relating to the Branch's 2016 election of officers.

At the outset, the written request that you forwarded appears to be based on a provision of the Branch 2550 By-laws. It would be entirely inappropriate for me to offer any advice as to the meaning of the By-laws. Disputes over the interpretation or application of the By-laws must be resolved, in the first instance, at the Branch level. Any ruling you make as Branch President may be appealed to the Branch under Article 11 of the Constitution for the Government of Subordinate and Federal Branches. The Branch's decision is subject to appeal to the National Committee on Appeals.

I can advise you that the NALC Regulations

Governing Branch Election Appeals do not contain any provisions which specifically address this question of document review. Previous rulings have recognized that there could be cases in which a member who has appealed the election would need to examine these materials to support his/her 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.

If the request does not relate to a pending appeal, then the Branch would have discretion to decide the matter, again subject to appeal.

**MARI THOMSON, SAN DIEGO, CA, BRANCH 70**

**February 1, 2017, (6402)**

Your letter to NALC Vice President Lew Drass, dated January 19, 2017, has been referred to me for reply. Your letter asserts that Branch 70 has failed to send one of your appeals to the National Committee on Appeals, for which Brother Drass serves as Chairman.

As I have noted in previous correspondence, it would be inappropriate for me to address your specific claims, particularly since I only have your side of the story. However, I can provide general guidance.

Article 11, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches provides that an appeal by an aggrieved member must be filed with the Branch and that the Branch must transmit the appeal to the Committee, along with the Branch's response, within twenty days following the Branch meeting at which the appeal is read.

Generally speaking, the Committee on Appeals does not have the constitutional authority to police a Branch's compliance with the above requirement before it receives an actual appeal. As previous rulings have recognized, if the Branch fails to discharge its responsibility to transmit an appeal in a timely manner, the usual remedy is that the appellant will have the right to send the appeal directly to the Committee. Following receipt of the appeal from the appellant, the Committee has discretion either to order the Branch to submit a response or to decide the appeal based solely on the material submitted by the appellant.

**GERALD SOILEAU, LAFAYETTE, LA, BRANCH 1760**

**February 2, 2017 (6391)**

This is in reply to your letter, faxed to NALC Headquarters on January 10, 2017, concerning Branch 1760's voting procedure. I regret that I was unable to respond to your letter before your January 19 meeting, as requested in your letter.

Nonetheless, I would not have been able to provide a direct answer to your specific question. Your letter asks that I rule on whether voting by ballot would violate the Branch By-laws. 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 Bylaws 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 Bylaws. 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).

In addition, objections to the conduct of an election, including objections to the method of voting, may be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures.

**CAROLYN WALLACE, LAUDERHILL, FL, BRANCH 2550**

**February 2, 2017, (6392)**

This is in reply to your letter, received by my office on January 9, 2017, in which you seek clarification as to which candidate should have been installed as President of Branch 2550 following a contested election and the submission of post-election appeals.

As I clearly stated in my December 7 letter to Election Committee Chairman Ronald Troum, the result of the election, as determined by the Election Committee, should stand while appeals are still pending. Accordingly, the winner determined by the Election Committee should be installed and should hold office during the appeal process.

I trust that the foregoing addresses your concerns. I express no view as to any issue which may have been raised in any pending election appeal.

**JOSEPH GORDON, PASADENA, TX, BRANCH 3867**

**February 2, 2017, (6406)**

Your email to Secretary-Treasurer Nicole Rhine, sent January 19, 2017, has been referred to me for reply. Your email requests clarification of the requirements for calling a special meeting of Branch 3867.

Special meetings may be called only in accordance with Article 3, Section 2 of the Constitution for the Government of Subordinate and Federal Branches i.e. upon the request of a minimum number of members specified in the bylaws or *by vote of the Branch*.

In response to your specific question, the phrase *vote of the Branch*, as used in Article 3, Section 2, refers to a vote taken at a regular meeting to conduct a special meeting for a specified purpose. This provision gives Branch members at a regular meeting the option of deferring consideration of certain issues to a special meeting. For example, if the members in attendance at a regular meeting feel that they need more time to consider an issue which must be decided before the next regular meeting, they may call for a special meeting to vote on the issue. Deferral of an important issue to a special meeting might also be warranted for other reasons such as the absence of the Branch President or low attendance

at the regular meeting because of bad weather or similar circumstances.

**GREG FRIEDERS, INDIANAPOLIS, IN,  
BRANCH 39**

**February 6, 2017 (6417)**

This is in reply to your recent letter, received by my office on January 27, 2017, requesting a ruling as to whether candidates in the current Branch 39 election of officers may post campaign material on the NALC or Branch 39 Facebook pages.

At the outset, campaign postings by candidates for Branch office are not permitted on the NALC page. Any such material posted as a comment will be deleted.

The Branch 39 page is another matter. The NALC Regulations Governing Branch Election Procedures (RGBEP) do not presently contain any provisions on social media. Accordingly, so far as the NALC election regulations are concerned, the Branch has discretion to prohibit or permit candidates to post material on its Facebook page.

However, as clearly provided by Section 9.1 of the RGBEP, "The branch must treat all candidates equally; any and all privileges extended to one candidate by the branch must be extended to all candidates." Accordingly, if the Branch does allow candidates to post material on its Facebook page, it must treat all candidates equally. The Branch should advise all candidates in advance of the conditions under which postings will be permitted.

**RAFAEL PALMA, SAN DIEGO, CA, BRANCH  
70**

**February 8, 2017 (6407)**

This is in reply to your letter, dated January 6, 2017, requesting dispensation permitting the restoration of your membership in the NALC as a retiree.

In light of your personal circumstances when you retired from the Postal Service, I 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.

**JOAN SAWYER, YUMA, AZ, BRANCH 1642**

**February 8, 2017 (6426)**

This is in reply to your letter, dated January 30, 2017, requesting a ruling as to whether the Secretary of Branch 1642 Charles Norris been disqualified from continuing to serve as a Branch officer under Article 5, Section 2 of the Constitution for the Government of Subordinate and

Federal Branches. According to your letter, Sister Montana recently participated in a route inspector training program offered by the Postal Service. Your letter does not indicate that she took any additional steps to obtain a supervisory position.

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. Participation in a Postal Service training program may or may not constitute an application for a supervisory position, depending on the circumstances. Local practices may be relevant.

Your letter does not provide sufficient information as to the nature of the application process to permit me to make a definitive ruling with respect to Sister Montana. For example, your letter does not indicate whether the Postal Service treats individuals who participate in the training as applicants for a supervisory position, or whether additional steps are required to complete the application.

If the Postal Service does consider anyone who completed the training course as an applicant for a supervisory position, then the member would be ineligible to serve as a Branch officer under Article 5, Section 2. By contrast, if management does not treat those who participate in the training as applicants, so that additional steps are necessary to complete the application, then the member would not be disqualified until he/she had completed these steps.

In any event, it is for the Branch to determine, in the first instance, whether or not a member has in fact applied for a supervisory position. The Branch should investigate this matter and, if necessary, discuss the situation with management to clarify whether an individual who participates in the training program is considered to be an applicant for a supervisory position. If the Branch concludes that in the present case Sister Montana's participation in the training was not tantamount to an application for a supervisory position, then she will remain eligible to be Branch Secretary.

Apart from the foregoing, your letter also asks whether the inspector position in question is supervisory. Once again, your letter does not provide sufficient information for me to rule on this matter. 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.

It is the responsibility of the Branch in the first instance to determine whether a particular position meets these criteria.

**MIKE HENDREN, STERLING HEIGHTS, MI,  
BRANCH 4374**

**February 9, 2017 (6432)**

This is in reply to your, sent February 8, 2017, requesting guidance as to the rights of members who have accepted management positions, in-

cluding 204bs, to vote in the upcoming Branch 4374 re-election.

Please be advised that this issue has been addressed in numerous presidential rulings. The applicable principles may be summarized as follows.

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, 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 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. Accordingly, if a 204b returns to a bargaining unit assignment, the member would at that point have the right to vote in the election.

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 (RGBEP).

**CHRIS FAYARD, SHAWNEE MISSION, KS,  
AND ANDREW ZUNIGA, KANSAS CITY, KS,  
BRANCH 5521**

**February 15, 2017 (6434)**

This is in reply to your two recent letters, received by my office on February 13, 2017, requesting a ruling as to whether Brother Zuniga may be reinstated as a steward in Branch 5221. According to your letters, Brother Zuniga inadvertently applied for a management position on a Postal Service web site and subsequently withdrew the application.

Your letters do not provide sufficient information for me to rule on this matter. I can provide the following guidance which the Branch may apply to the specific facts.

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.)

This 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 this rule.

At the same time, the facts described in your two letters are insufficient to show that the position Brother Zuniga applied for was *supervisory*. Not all higher level or management positions are supervisory within the meaning of Article 5, Section 2. Generally speaking, a position is considered supervisory 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 the management position Brother Zuniga applied for did not entail such authority, then he would remain eligible to serve as a steward.

In addition, the Article 5, Section 2 disqualification applies when a member *applies for a supervisory position*. An error committed in filling out an electronic form would not necessarily constitute an *application*, particularly when the error is corrected soon thereafter.

It will be Brother Fayard’s responsibility, as Branch President, to determine whether Brother Zuniga intentionally applied for a specific position with supervisory authority. If he did not, then he may be reappointed as a steward.

**MARI THOMSON, PINE VALLEY, CA,  
BRANCH 70**

**February 15, 2017 (6433)**

Article 9, Section 1 of the NALC Constitution confers upon the National President “general superintendency” of the NALC’s affairs, as well as

the authority to enforce all laws of the National Association.

However, I am not inclined to exercise my authority as National President to intervene in the processing of any of your appeals. As previously explained, if a Branch fails to discharge its responsibility to transmit an appeal in a timely manner, the usual remedy is that the appellant will have the right to send the appeal directly to the Committee on Appeals. Following receipt of the appeal from the appellant, the Committee has discretion either to order the Branch to submit a response or to decide the appeal based solely on the material submitted by the appellant.

**DON PULICE, WILMINGTON, NC, BRANCH  
464**

**February 17, 2017 (6440)**

This is in reply to your letter, faxed to my office on February 14, 2017, requesting dispensation to postpone Branch 464’s nominations and election of officers by one month. According to your letter, nominations were supposed to be held on February 21 and the election on March 21. You now request permission to hold nominations at the March meeting and the election at the April meeting. This request is necessitated by the Branch’s inadvertent failure to send out a timely notice of nominations and 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 make sure that appropriate and timely notice is provided to the members.

Please understand that this dispensation applies only to the 2017 nomination and election. 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.

**CHRISTINE ANDERSON, TOLEDO, OH,  
BRANCH 100**

**February 17, 2017 (6436)**

This is in reply to your letter, dated January 30, 2017, requesting dispensation to rejoin the NALC as a retiree member.

I regret to advise that I must decline your request. Our records show that you retired from the Postal Service in 2015. The NALC Constitution requires that a retiring member execute a Form 1189 at the time of retirement in order to maintain his/her status as a regular member of the NALC. See Article 2, Section 1(e). Our records indicate that the NALC Membership did send you a Form 1189 after your retirement, but you declined to complete and submit the form.

Members on a disability retirement who are receiving benefits from OWCP do have the option of arranging with their Branch to make direct payment of dues in lieu of executing Form 1189. However, it is clear that you did not make such an arrangement with your Branch at the time you retired.

**YOLANDA POUILLARD, BEAUMONT, TX,  
BRANCH 842**

**February 28, 2017 (6442)**

This is in reply to your letter, dated February 8, 2017, concerning an issue that arose during Branch 842’s nominations of officers and delegates in October, 2016. In particular, you ask whether a member who had been nominated for the office of Branch Secretary properly nominated herself to be a delegate to the national and state conventions.

The rules which appear to be relevant to the issue are Sections 6.4 and 6.5 of the NALC Regulations Governing Branch Election Procedures. Section 6.4 states that “Self-nomination is permissible.” Thus, the fact that the member nominated herself for a delegate position is of no consequence.

Section 6.5 provides that “No person shall accept nomination for more than one office.” (Emphasis supplied.) Convention delegates are not Branch officers. Accordingly, there is no bar to a member accepting nomination for both a Branch office and a delegate position.

The fact that the office for which the member had been nominated would have been an automatic delegate is also of no significance. Previous rulings have recognized that members can be nominated both as an officer who would be an ex officio delegate and, separately, as a delegate.

In sum, the facts set forth in your letter do not indicate that the nominations in question violated the NALC election regulations.

**DOUG JAYNES, AURORA, CO, COLORADO  
STATE ASSOCIATION OF LETTER CARRIERS**

**February 28, 2017 (6437)**

This is in reply to your recent letter, which was received by my office on February 13, 2017.

I appreciate your support for Sister Kirby. Unfortunately, as I have explained to her, restoration of her membership would be inconsistent with the NALC Constitution. Article 2, Section 1(a) specifically states that retiree members must be regular members “when they retired.” Therefore, an active member who resigns from the Postal Service before he/she retires is not subsequently eligible for retiree membership in the NALC.

Sister Kirby’s request for special dispensation remains under review. I have advised her that correspondence confirming that she received misleading or incomplete information at the time she separated from the Postal Service would be helpful. Dispensations have been granted in the past based on similar circumstances. Please advise if you are aware of any facts that would support such a grant of dispensation in Sister Kirby’s case.

**NINA KENDRICK, GASTONIA, NC, BRANCH  
1512**

**March 8, 2017 (6458)**

This is in reply to your letter, received by my office on February 23, 2017, requesting dispensation permitting Branch 1512, Gastonia, NC to install its newly elected officers out of time.

Article 5, Section 6 of the Constitution for

the Government of Subordinate and Federal Branches provides that officers shall be installed at the first or second Branch meeting following their election. However, according to your letter, Branch 1512 did not have a December meeting and its January meeting was cancelled due to bad weather. The installation was not conducted at the February meeting because the Branch President resigned and no one else was scheduled to perform the swearing in.

As I understand the facts, the March meeting would be the second meeting to actually take place following the November election. Installing the officers at that meeting would be consistent with Article 5, Section 6 so that dispensation from me would not be necessary.

However, if it is not possible to install the officers at the March meeting, then, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 1512 dispensation to conduct its installation of officers at its April meeting.

**CAROLYN WALLACE, LAUDERHILL, FL,  
BRANCH 2550  
March 8, 2017 (6459)**

This is in reply to your letter, dated February 20, 2017, concerning the ongoing dispute over the Branch 2550 elections that took place in November. In particular, your letter requests that I order that Brother Ben Wright be installed as President in light of the Branch's decision at its meeting on February 14 to uphold his appeal.

Once again, I must decline your request. As I explained in previous correspondence, in cases where the outcome of the election is in dispute the final determination of the Election Committee as to which candidate won the election must stand until the appeal process has been exhausted. In this case, the Branch's decision remains subject to appeal to the National Committee on Appeals under Section 21.4 of the NALC Regulations Governing Branch Election Procedures.

Until the Committee rules on this matter, any intervention by the National Union would be premature. If the Committee does uphold the Branch's decision, then (but only then) Brother Wright may be installed as President.

I trust that the foregoing, at least in part, addresses your concerns. As noted in previous correspondence, I express no view as to any of the issues described in your letter or which may be raised in any appeal to the National Committee.

**CHRISTOPHER HAMRICK, APOPKA, FL,  
BRANCH 5192  
March 10, 2017 (6466)**

This is in reply to your letter, dated February 27, 2017, requesting dispensation permitting Branch 5192 to conduct a re-run election. According to your letter, the Branch sustained an appeal of the conduct of the November, 2016 election and voted to conduct a re-run election.

At the outset, dispensation from me is not necessary. Section 21.3 of the NALC Regulations Governing Branch Election Procedures authorizes the members present at the meeting at which an

election appeal is heard to "decide the merits of the appeal." This authority empowers the members to decide to conduct a re-run election. The Branch may proceed with the re-run election.

However, it would not be necessary to re-open nominations, unless the appeal was based on errors in the nomination process. Accordingly, there should be no need to re-run the election for those offices for which candidates were proposed and elected by acclamation.

**MICHAEL MONOPOLI, WEST MELBOURNE,  
FL, BRANCH 2689  
March 10, 2017 (6467)**

This is in reply to your letter, dated February 18, 2017, inquiring whether Brother Mike Clark would be disqualified from serving as the Secretary of Branch 2689 and of the Florida State Association if he were to apply for a job as a Business Development Specialist.

As you know, the Constitution generally prohibits members who hold or apply for supervisory positions from serving as national, state, or branch officers. See, Article 6, Section 4 of the NALC Constitution and Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. However, as previous rulings have repeatedly held, higher level assignments are not necessarily supervisory for purposes of this disqualification.

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. The job description for the Business Development Specialist position which you provided does not indicate that the position carries such authority. Assuming that the job description accurately reflects the responsibilities of the position, applying for that position would not disqualify Brother Clark from continuing to serve as a branch or state officer.

**LISA JONES, WARREN, MI, BRANCH 4374  
March 10, 2017 (6464)**

This is in reply to your letter, dated February 24, 2017, requesting an investigation into alleged misconduct by a candidate in the recent rerun election for President of Branch 4374.

I do appreciate your concerns. However, it would be entirely inappropriate for the National Union to intervene in this matter at this time. All objections to the conduct of an election, including objections to the conduct of a rerun election, must be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. A member cannot bypass the appeal procedure by seeking a ruling from the National President.

**BENJAMIN WRIGHT, FORT LAUDERDALE, FL,  
BRANCH 2550  
March 15, 2017 (6468)**

This is in reply to your letter, dated February 27, 2017, concerning the ongoing dispute over

the Branch 2550 elections that took place in November. In particular, you ask whether you should now be installed as President in light of the Branch's decision at its meeting on February 14 to uphold your appeal.

While I appreciate your concern, I must advise that installing you as President now would be premature. As I explained in previous correspondence, in cases where the outcome of the election is in dispute the final determination of the Election Committee as to which candidate won the election must stand until the appeal process has been exhausted. In this case, the Branch's decision remains subject to appeal to the National Committee on Appeals under Section 21.4 of the NALC Regulations Governing Branch Election Procedures.

If the Committee does uphold the Branch's decision, then (but only then) you may be installed as President.

**SHAMKIA KING, NEW IBERIA, LA, BRANCH  
1760  
March 17, 2017 (6481)**

This is in reply to your letter, dated February 28, 2017, requesting that the National Union assist Branch 1760 in conducting its election of officers. Your letter asserts that the Branch is not following its By-laws and that the nominations need to be redone because of inadequate notice.

I do appreciate your concerns. However, it would be entirely inappropriate for the National Union to intervene in this matter at this time. As I noted in my previous letter to Branch President Soileau, all objections to the conduct of an election, including objections to the conduct of nominations, must be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. A member cannot by-pass the appeal procedure by seeking a ruling from the National President.

I can provide guidance with respect to the applicable notice requirements. Article 5, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches and Section 5.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) require that a notice of nominations and election be sent by mail to each member of the Branch 45 days before the election, not 45 days before nominations. Section 6.1 of the RGBEP provides that the notice of nominations must be sent out 10 days before the date nominations are held. The limited information contained in your letter does not indicate that the Branch failed to meet these deadlines.

**TONYA FLEMING, EUREKA, CA, BRANCH  
348  
March 22, 2017 (6495)**

This is in reply to your letter, received by my office on March 15, 2017, requesting a ruling as to whether Branch 348 is required to pay to send two delegates to the upcoming California State Association Convention.

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. However, the Constitution does not require that Branches do so.

To be sure, a Branch may not withhold funds if doing so would violate its By-laws. However, it would be entirely inappropriate for me to issue a ruling resolving the question whether the Branch 348 By-laws require the expenditures at issue. As National President, it is my responsibility to interpret the NALC Constitution. 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.

As President of the Branch, you are authorized to interpret the Branch By-laws. The decision of the Branch President interpreting a By-law may be formally appealed, initially to the Branch itself, in accordance with the procedure set forth in Article 11, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). The decision of the Branch may be appealed to the National Committee on Appeals in accordance with Article 11, Section 2 of the CGSFB.

**DENNIS PACK, FORT LAUDERDALE, FL,  
BRANCH 2550**

**March 22, 2017 (6494)**

This is in reply to your letter, dated March 15, 2017, requesting guidance as to the authority of the Branch 2550 Trustees to audit financial records pertaining to years prior to their current term of office.

Please be advised that the duties and responsibilities of the Branch Board of Trustees are set forth in Article 6, Section 9 of the Constitution for the Government of Subordinate and Federal Branches which reads as follows:

The Trustees shall examine and report to the Branch the condition of the books of the officers at least once every six months, compare the vouchers and records and see that they correspond with the collections and disbursements. They shall have custody of all Branch property, and shall perform such other duties as the Branch by-laws may require of them. The Board of Trustees shall be known as the Trustees of \_\_\_\_\_ Branch No. \_\_\_\_\_ of the National Association of Letter Carriers of the United States of America.

The above language allows Branches, through their By-laws, to assign additional duties to the Board of Trustees. Prior rulings also indicate that past practices in the Branch may be relevant to determining the proper scope of the Trustees' responsibilities.

In answer to your specific question, the language of Article 6, Section 9 does not limit the Branch books and records which are subject to examination by the Trustees. Previous rulings have consistently recognized that the Trustees do have authority to examine financial records going back to years before their current term of office.

**LARRY KANIA, BUFFALO, NY, BRANCH 3  
April 4, 2017 (6504)**

This is in reply to your letter, dated March 22, 2017, requesting dispensation permitting a member to receive funds from Branch 3 for attendance at the New York State Association convention in June. 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 you cancelled a meeting due to inclement weather.

The issue presented here is similar to the question I addressed in my letter to you last year concerning a member who could not meet the attendance requirement because of military service. As I noted in that letter, dated January 13, 2016, your request for dispensation in this circumstance 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 Sister Janet Clark, notwithstanding her inability to meet the minimum meeting attendance requirement provided by the Branch By-laws.

However, as I noted in my earlier letter, since the By-laws do not authorize such payment, the members will have to vote on it. Accordingly, any payment to Sister Clark 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.

**JERRELL KINLOCH, FORT LAUDERDALE, FL,  
BRANCH 2550**

**April 4, 2017 (6502, 6503, 6505 & 6511)**

This is in reply to your letter, dated March 21, 2017 concerning an appeal of the Branch 2550 election of officers to the National Committee on Appeals. By copy of this letter, I am also responding to letters I have received from Sisters Carolyn Wallace and Brenda Frances, dated March 16 and March 20, respectively, and a follow-up letter from Sister Wallace, faxed on March 23.

Your letters request guidance as to the procedure for responding to an appeal to the National Committee on Appeals under Section 21.4 of the NALC Regulations Governing Branch Election Procedures (RGBEP). Specifically, you ask who is to prepare the Branch's response, as provided by Section 21.43 of the RGBEP, when the appeal is submitted by, or on behalf of, the President of the Branch.

As previous rulings have recognized, Section 21.43 does not specify who is to prepare the Branch's response to an appeal. If the Branch President is the party who has appealed the Branch's decision to the National Committee, or

if the Branch President supports the appeal, then he cannot prepare the Branch's response. The response must be prepared by a member who supports the Branch's decision.

In the circumstances described in your letter, any officer who is not supporting the appeal may prepare the response. Alternatively, the response may be submitted by the members who submitted the original appeal that was upheld by the Branch; or the Branch could vote to designate one or more members to draft the response on behalf of the Branch.

In light of the circumstances described in your letters, I would be prepared to consider a request for dispensation granting additional time to submit the Branch's response to the appeal.

By copy of this letter, I am advising the parties of your appointment. They are expected to cooperate fully in your investigation.

**JACKIE MADDOX, LITTLE ROCK, AR,  
BRANCH 35**

**April 4, 2017 (6508)**

This is in reply to your letter, dated March 23, 2017, concerning the merger of Branches 4932 and 35. According to your letter, you have recently learned that the original merger application, which was mailed on February 20, 2014, was never received at national headquarters. Nonetheless, the merger has been implemented and Branch 35 has assumed representational responsibility for letter carriers employed at Heber Springs, AR, who were previously represented by Branch 4932.

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. By copy of this letter, I am advising Secretary-Treasurer Nicole Rhine and the NALC Membership Department to take whatever action may be necessary to formally recognize the merger.

**NINA KENDRICK AND JANET TUCKER,  
GASTONIA, NC, BRANCH 1512**

**April 21, 2017 (6530 & 6546)**

This is in reply to Sister Tucker's email, sent April 10, 2017, and Sister Kendrick's undated letter, received by my office on April 14. Both of you ask how Branch 1512 should fill the current vacancy in the office of Branch President. According to Sister Kendrick's letter, the previous President was re-elected but resigned before the installation. All other officers have been installed, including the newly elected Vice President.

Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (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 if, as is apparently the case here, the member who was elected President declines to be installed. The Vice President, upon becoming President, 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.

**PAUL DANIELS, MERIDIAN, CT, BRANCH 20  
April 27, 2017 (6547)**

This is in reply to your letter, dated April 12, 2017, requesting clarification of the Branch merger process under Article 2, Section 3 of the NALC Constitution. Your letter indicates that Branch 20 and another Branch are considering a merger, with a deferred effective date of January 1, 2018.

In response to your first question, please be advised that the ninety day window period provided by Article 2, Section 3(a) refers to the period in which both branches must vote, i.e., the meetings at which the two Branches vote must be within ninety days of each other. Accordingly, if one of two Branches proposing to merge votes first to approve the merger, the second Branch would have a ninety day window following the date of that vote to consider and vote on the proposal.

As to your second question, the limited information in your letter is not sufficient for me to advise you now that Branch 20 could dispense with its regular November nominations and December election. Previous rulings have noted that the pendency of a merger vote is no justification for cancelling an election. In addition, the cancellation of an election cannot extend the terms of office of Branch officers.

Apart from the foregoing, even if both Branches have voted in favor of the merger and have submitted a merger application form before November, the merger must still be approved by me. Keep in mind that members have the right to appeal merger votes under Article 2, Section 3(i). Previous rulings have recognized that a time lag which results in an unreasonable delay in implementing a merger could be an issue raised in a complaint under Article 2, Section 3(i).

Of course, if no one files a complaint, in all likelihood I will approve the merger. If that were to take place before November, I would be prepared to consider a request for dispensation to cancel Branch 20's November nominations and December election, as effectively moot. However, before granting such a request I would need to have a more detailed statement of all relevant facts along with a copy of the merger agreement.

**PATRICK CARROLL, RICHMOND, IN,  
BRANCH 271  
April 27, 2017 (6555)**

This is in reply to your email, sent April 24, 2017, concerning the situation in Branch 271, Richmond, IN. According to your email, charges have been filed against the Branch President and Vice President, and there are no disinterested Branch members who would serve on a committee to investigate the charges.

In light of the circumstances, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I am hereby authorizing you to appoint a committee to investigate the charges consisting of three disinterested members of other Branches located near Branch 271.

In addition, I am authorizing you, or your designee, to chair the Branch meeting at which the committee will submit its report and the members will vote on the charges.

**B.J. HANSEN, SEATTLE, WA, BRANCH 79  
April 27, 2017 (6535)**

This is in reply to your letter, dated April 3, 2017, requesting dispensation permitting Branch 79 to change the date of its November 8 membership meeting to November 15. According to your letter, the scheduled meeting date provided by the Branch By-laws would be November 8, which would conflict with Region 2's Regional Assembly.

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.

**MARI THOMSON, PINE VALLEY, CA,  
BRANCH 70  
April 27, 2017 (6545)**

This is in reply to your email, sent April 14, 2017, concerning charges you filed before you were expelled by Branch 70. Insofar as the expulsion has been reversed by the Committee on Appeals, you now ask how those charges can be reinstated.

In a previous letter to you, dated October 26, 2016, I advised that during the term of a suspension or expulsion the Branch is not required to act on charges previously filed by the suspended or expelled member. However, if the member appeals to the National Committee on Appeals, and the Committee reverses the suspension or expulsion, the member will have the right to resubmit the charges to the Branch.

Your email suggests that the previously filed charges may have already been served and read to the Branch. If that is the case, then the Branch should resume the process at the point it was stopped.

The Constitution does not provide specific procedures or time lines when the processing of charges has been interrupted by a suspension or expulsion which is subsequently overturned. Accordingly, previously applicable time limits may be extended as necessary to ensure compliance with the basic procedures established by Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

**MICHAEL HAYDEN, NORTHWOOD, OH,  
BRANCH 100  
May 4, 2017 (6556)**

This is in reply to your letter, dated April 17, 2017, requesting that I issue a presidential dispensation permitting Patricia Heilman to be reinstated as a retiree member of Branch 100.

It appears that Sister Heilman's membership lapsed after her retirement because the NALC never received a Form 1189, as required by Article 2, Section 2(e) of the NALC Constitution. Your letter indicates that Sister Heilman believed that she had completed a Form 1189, and that neither she nor the Branch were aware

that the Form had never been received by the National Union.

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. Sister Heilman must execute a new Form 1189 and must pay all dues that accrued during the period when her membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment and reinstatement of Sister Heilman's membership.

**RONALD TROUM, COCONUT CREEK, FL,  
BRANCH 2550  
May 5, 2017 (6570)**

This is in reply to your letter, dated April 19, 2017, requesting that I provide advice as to whether the compensation of the Branch 2550 President and Vice President is appropriate in light of provisions of the Branch By-laws quoted in your letter.

As you recognize, I previously responded to similar questions from you in a letter dated April 7, 2014. As I told you then, it would be entirely inappropriate for me to comment on the questions posed in your current letter. 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.

As I previously noted, the issues 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.

**KEN BATES, DILLON, MT, BRANCH 1778  
May 5, 2017 (6565)**

This is in reply to your letter, dated April 11, 2017, requesting that Branch 1778 be required to conduct an election of officers. According to your letter, the Branch has never had an election of union officers.

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 2 National Business Agent Paul Price to provide whatever assistance the Branch may need in conducting a special election. Please feel free to contact Brother Price and to share copies of this letter with the other members of the Branch.

**FRANCISCO PECUNIA-VEGA, FAYETTEVILLE, NC, BRANCH 1128**

**May 5, 2017 (6572)**

This is in reply to your letter, dated April 24, 2017, requesting special dispensation permitting the issuance of a sixty-year lapel pin on behalf of the late George M. LeVander Jr, who joined the NALC on January 1, 1957. According to your letter, Brother LeVander passed away just two days shy of meeting the eligibility requirement for a sixty year pin. Branch 1128 now proposes to award him the pin posthumously and to present it to his wife and family at the North Carolina State Convention in June.

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 instructing Secretary-Treasurer Nicole Rhine to make whatever arrangements are necessary to award the sixty year lapel pin to the Branch on behalf of Brother LeVander.

Thank you for bringing this matter to my attention. I commend Branch 1128 for this wonderful gesture and for establishing a scholarship fund to honor Brother LeVander's memory.

**RUSSELL QUICK, ABINGDON, VA, BRANCH 807**

**May 23, 2017 (6584)**

This is in reply to your letter, dated May 8, 2017, requesting that I issue a presidential dispensation permitting you to be reinstated as a retiree member of Branch 807.

It appears that your membership lapsed after your disability retirement because the NALC never received a Form 1189, as required by Article 2, Section 2(e) of the NALC Constitution. Your letter, along with a recent letter from Branch President John Olsen, indicates that you were under the mistaken impression that your membership had been continued.

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. You must execute a new Form 1189 and must pay all dues that accrued during the period when your membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment and reinstatement of your membership.

**SELMA KLEIN, RAWLINS, WY, BRANCH 2779**

**May 23, 2017 (6593)**

I am writing in response to a letter, dated April 27, 2017, from five members of Branch 2779, Rawlins, WY. The letter asserts that serious issues exist relating to the governance of the Branch. In particular, the letter indicates that the Branch may not be holding regular meetings and has not conducted an election in at least 15 years.

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 expeditious-ly as possible.

By copy of this letter, I am instructing Region 4 National Business Agent Roger Bledsoe to designate a representative from his office to assist the Branch in conducting a special election if one is needed. Brother Bledsoe's representative is also authorized to recommend changes in any current Branch practices and to suggest solutions to any ongoing conflicts in the Branch.

Brother Bledsoe's designee will contact you directly to make appropriate arrangements. Please feel free to contact Brother Bledsoe and to share copies of this letter with the other members of the Branch. Thank you for your anticipated cooperation.

**THOMAS CRONIN, FARMINGTON, CT, BRANCH 86**

**May 23, 2017 (6583)**

This is in reply to your letter, dated April 27, 2017, requesting that I intervene to overturn the decision by Branch 86 President Mike Willadsen to order a re-run election for steward in your office. (Please note that your letter was not received by my office until May 8.) Your letter indicates that you won the initial election, but that a second election was ordered by the Branch President to correct a claimed error in the conduct of the first election. You also suggest that Brother Willadsen's decision is inconsistent with the Branch By-laws.

While I appreciate your concerns, I must advise that it would be inappropriate for me to intervene in this matter by ruling on the issue described in your letter. This dispute rests on local facts and the application of the Branch By-laws and must be resolved, in the first instance, at the Branch level. I can offer the following guidance.

Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that stewards may be elected in individual stations "as the Branch may determine." Accordingly, Branches have considerable discretion to implement procedures for steward elections in individual offices. However, the conduct of a steward election must be consistent with any applicable provisions of the Branch By-laws.

Any member who believes that a steward election was conducted improperly, may initiate an appeal. The President's decision to conduct the re-run election may be appealed directly to the Branch under Article 11 of the CGSFB. The decision of the Branch may be appealed to the National Committee on Appeals.

**INGRID ARMADA, CRANSTON, RI, BRANCH 15**

**June 2, 2017 (6609)**

This is in reply to your email, sent May 31, 2017, requesting assistance in resolving a dispute that has arisen over the conduct of a steward election in Branch 15.

It would be inappropriate for me to intervene

in this matter or offer an opinion as to the specific dispute described in your email. I can advise you as to the following guidelines for shop steward elections.

First, neither Article 5 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) nor the NALC Regulations Governing Branch Election Procedures (RGBEP) apply to 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."

Second, the conduct of a steward election must be consistent with any applicable provisions of the Branch By-laws. If there are no relevant By-law provisions, the Branch would have discretion to conduct the election in accordance with its established procedures.

Third, any member who believes that a steward election was conducted improperly, may initiate an appeal. Thus, if, as Branch President, you deny Sister Rogers' request for a re-run election, she may appeal your decision directly to the Branch under Article 11 of the CGSFB. The decision of the Branch may be appealed to the National Committee on Appeals.

**SHAWN BOYD, KINGWOOD, TX, BRANCH 1179**

**June 2, 2017 (6507)**

Thank you for your thorough investigation and report of the situation in Branch 1179. I write now in response to your request for dispensation permitting the Branch to conduct a special election to be supervised by the Region 10 NBA office.

In light of the facts set forth in your report, 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 an appropriate and timely notice of nominations and election is mailed to each member by your office, as suggested in your report.

In addition, following the election you should provide all necessary assistance and training to the newly elected officers and encourage continuing consideration by the members of merger possibilities.

**TIFFANY TIBBS, HARVEY, LA, BRANCH 124**

**June 6, 2017 (6608)**

This is in reply to your letter, dated May 20, 2017, concerning an apparent personal dispute between you and Branch 124 President Michael Alexander.

As a general matter, NALC members are expected to treat each other with respect. However, apart from this observation, I must advise that it would be inappropriate for me to comment on the situation described in your letter, particularly since I only have your side of the story before me. I can offer the following guidance.

First, previous rulings have recognized that decisions about the content of a Branch newsletter are normally the prerogative of the Editor.

However, such decisions are subject to the overall supervisory authority of the Branch President. Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) specifically provides that the Branch President has "general supervisory powers over the Branch," including the power to "see that officers perform their duties." This explicit grant of supervisory authority necessarily encompasses the authority to supervise the Editor of the Branch newsletter.

Second, any decisions by the Branch President regarding the newsletter are subject to appeal to the members under Article 11, Section 1 of the CGSFB. Additionally, members may file charges of misconduct against Branch officers under Article 10 of the CGSFB. I offer no opinion as to whether an appeal or charge in the situation described in your letter would have any merit.

**CHRISTOPHER HAMRICK, APOPKA, FL, BRANCH 5192**

**June 8, 2018 (6617)**

This is in reply to your letter, dated June 1, 2017. According to your letter, Branch 5192 has been unable to locate a current copy of its By-laws, and the National Committee of Laws has advised that it does not have a copy on file. You are now requesting dispensation permitting the Branch to use temporarily a version dated May 22, 1992, which apparently is the most recent version on file with the Department of Labor. The Branch intends to review and update these By-laws.

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

First, this dispensation is without prejudice to any post-election appeals that may be filed in connection with the Branch's ongoing re-run election of officers.

Second, the Branch is expected to update its By-laws expeditiously. The updated By-laws should be submitted to the Committee of Laws for review.

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

**June 20, 2017 (6628 & 6629)**

This is in reply to your two recent letters, both dated May 25, 2017.

One of the letters requests documentation of the general duties and responsibilities of branch officers, such as attending meetings of the Branch and Executive Board, and voting. Please be advised that NALC Constitution does not contain any such provisions. Article 6, Sections 1 - 9 of the Constitution for the Government of Subordinate and Federal Branches set forth the specific duties of each individual branch office. Please note that Article 6, Section 10 also states that officers "shall perform such other duties as the Branch may from time to time direct." The Branch By-laws may further specify duties and responsibilities of the officers.

**CINDY KIRBY, CENTREVILLE, VA, BRANCH 47**

**July 10, 2017 (6231, 6358, 6437 and 6639)**

This is in further reply to your letters, dated September 6 and November 9, 2016, requesting reinstatement of your membership in the NALC as a retiree. By copy of this letter, I am also responding to correspondence from Doug Jaynes, received by my office on June 13, 2017.

As we previously advised, your NALC membership lapsed because you did not maintain your status as a Postal Service employee while waiting for approval of your application for disability retirement. Brother Jaynes' letter has now clarified the circumstances in which this occurred. It does appear that you were given incomplete and misleading advice which left you with the erroneous understanding that your application for retiree membership could be deferred until your application for disability retirement had been approved.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant your request for dispensation permitting you to rejoin the NALC as a retiree member. You must execute a new Form 1189 and must pay all dues that accrued during the period when your membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment and reinstatement of your membership.

**GLENDA BROWN, AMERICAN FORK, UT, BRANCH 2609**

**July 28, 2017 (6660)**

This is in reply to your letter, dated June 26, 2017, requesting dispensation and assistance to conduct a special election in Branch 2609. According to your letter, the Branch has not had an election in over five years.

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 2 National Business Agent Paul Price to designate a representative from his office to assist the Branch in conducting a special election if one is needed.

Brother Price's designee will contact you directly to make appropriate arrangements. Please feel free to contact Brother Price and to share copies of this letter with the other members of the Branch.

**LEMAN CLARK, NASHVILLE, TN, BRANCH 4**

**July 28, 2017 (6669)**

This is in reply to your letter, dated July 11, 2017, requesting dispensation permitting Branch 4 to conduct a second vote on a proposed merger with Branch 1819, Franklin, Tennessee. According to your letter, Branch 4 failed to give its members the full thirty days notice of the first vote, as required by Article 2, Section 3 of the

NALC Constitution. The Branch will provide thirty days notice of the second vote.

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 4 dispensation to conduct the merger vote outside the ninety day period from the Branch 1819 vote that would otherwise be required by Article 2, Section 3.

**EDWARD KLAISS, BENSLEM, PA, BRANCH 920**

**July 28, 2017 (6672)**

This is in reply to your letter, dated June 17, 2017, concerning the validity of a motion to change the location of Branch 920's election of officers in November, 2017. Your letter indicates that you and other members are seeking to change the voting location from Stowe, Pennsylvania, where the November meeting is to take place.

The issue you describe would appear to be controlled by Section 11.7 of the NALC Regulations Governing Branch Election Procedures (RG-BEP). Section 11.7 clearly states that voting must take place at a branch meeting unless the Branch By-laws allow the Branch to designate a different location:

Voting must be at a branch meeting unless branch by-laws provide for a different method. Alternate methods of voting, if authorized in branch by-laws, are:

- a) At stations, followed by voting at branch meetings by members who did not vote at stations (Section 13.0)
- b) By mail (Section 14.0)
- c) At a polling place designated by the branch.

I am assuming that: (1) the Branch 920 By-laws specify the location of Branch meetings, as required by Article 3, Section 1 of the Constitution for the Government of Subordinate and Federal Branches, and that (2) the By-laws do not contain any additional provisions authorizing an alternative location for voting. Accordingly, in order to change the location of regular Branch meetings or to authorize the designation of a different polling place for Branch elections, the Branch would be required to adopt an amendment to its By-laws, in accordance with the procedures provided by Article 15 of the NALC Constitution. A simple motion at a Branch meeting to change the voting location is insufficient under the Constitution and the RGBEP.

**KENNETH GIBBS, FORT LAUDERDALE, FL, BRANCH 4141**

**July 28, 2017 (6670)**

This is in reply to your letter, dated July 12, 2017, requesting dispensation to conduct a special election in Branch 4141, Siler City, North Carolina, in light of the resignation of its officers.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. You or your designee should arrange for and supervise nominations and an election of officers as expeditiously as possible.

**ERIEKA BROWN, MIAMI GARDENS, FL,  
BRANCH 2550**

**July 28, 2017 (6663)**

This is in reply to your letter, dated July 9, 2017, requesting guidance with respect to several issues.

Your first question is whether “there is any ruling that states if two members run for a steward position, that the runner up would not automatically become the alternate steward for a location that can have both a regular and alternate shop steward.” Please be advised that there are no provisions in the Constitution which specifically address this question. Rather, 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 a runner up is automatically deemed an alternate steward.

In light of the foregoing, the Branch By-laws would control the answer to your question. I do not know whether the Branch 2550 By-laws contain any relevant provisions. But this would be an issue for the Branch leadership and the members. The interpretation and application of the By-laws is the responsibility of the Branch in the first instance.

Your second question is whether you may attend the 2017 Florida State Association convention as a delegate from Branch 2550 in light of your acceptance of a detail to a 204b position. The answer to this question is no. 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 you have acted as a 204b within the past two years, as stated in your letter, then you may not attend the Convention as a delegate, either paid or unpaid.

The issue of reimbursement of your registration fee can only be resolved by the State Association. I can only suggest that you direct your inquiry to one of the Florida State Association officers.

Finally, you ask whether as a dues paying member currently acting as a 204b you may attend Branch meetings. 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.

**THOMAS ESTEP, WOODWARD, OK, BRANCH  
2173**

**July 28, 2017 (6661)**

This is in reply to your letter, dated May 8, 2017, requesting that I issue a presidential dispensation permitting you to be reinstated as a retiree member of Branch 2173.

It appears that your membership lapsed after you retired because the NALC never received a Form 1189, as required by Article 2, Section 2(e) of the NALC Constitution. However, your letter and NALC records now show that you never received the Form 1189 because we did not have your correct mailing address.

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. You must execute a new Form 1189 and must pay all dues that accrued during the period when your membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment and reinstatement of your membership.

**ERIEKA BROWN, MIAMI GARDENS, FL,  
BRANCH 2550**

**August 2, 2017 (6671)**

This is in reply to your letter, dated July 10, 2017. According to your letter, Branch 2550 is assessing members a mandatory deduction for a death benefits fund.

It would be inappropriate for me to comment on this specific situation based on the limited information in your letter. I can provide the following general guidance.

Article 8 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) prohibits mandatory assessment of dues to fund a death benefit program. Prior rulings have established that a Branch may not fund such a program from the normal Branch dues structure. The Branch can arrange to have a separate contribution collected from each member who voluntarily agrees to fund a death benefit program.

You are entitled to appeal any non-compliance with Article 8 in accordance with Article 11, Section 1 of the CGSFB. The Branch’s decision may be appealed to the National Committee on Appeals in accordance with Article 11, Section 2 of the CGSFB. I express no view as to the merits of any appeal you may initiate.

**KATHY BALDWIN, KINGWOOD, TX, BRANCH  
1509**

**August 14, 2017 (6686)**

This is in reply to your letter, dated July 28, 2017, requesting dispensation to conduct a

special election of officers in Branch 1509, Silver City, TX. According to your letter, this Branch has no officers and has not had a regular meeting in months.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. You or your designee should arrange for and supervise nominations and an election of officers as expeditiously as possible.

**CHRISTENE STERN, HOMOSASSA, FL,  
BRANCH 51**

**August 14, 2017 (6685)**

This is in reply to your letters, dated May 10 and July 18, 2017, requesting that I issue a presidential dispensation permitting you to be reinstated as a retiree member of the NALC.

It appears that your membership lapsed because you did not maintain your status as a Postal Service employee while waiting for approval of your application for disability retirement. Your letters, however, indicate that at that time your ability to act was substantially diminished by your physical disabilities and medication.

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. You must execute a new Form 1189 and must pay all dues that accrued during the period when your membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment and reinstatement of your membership.

**JOHN MITCHELL, WINTER HAVEN, FL,  
BRANCH 1779**

**August 15, 2017 (6687)**

Your email to NALC Secretary-Treasurer Nichole Rhine, sent July 31, 2017, has been referred to me for reply insofar as you raise an issue of constitutional interpretation. Specifically, you ask whether Article 6, Section 4 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires that a branch’s financial records must literally be available for inspection at “all times” including 3 am on a Sunday morning.

The short answer to your hypothetical question is no. Article 6, Section 4 does provide that the “accounts of all properties, investments, and funds of the Branch . . . at all times shall be open for 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 rules regarding the time, place, and manner of inspection.

**KEVIN GARDNER, SOUDERTON, PA,  
BRANCH 920**

**August 28, 2017 (6701)**

This is in reply to your letter, dated August 1, 2017, concerning your receipt of a request for a special meeting of Branch 920. As I read your let-

ter, the purpose of a special meeting would be to consider changing the location of the Branch election in November.

As indicated in my letter of July 28 to Brother Klaiss, Section 11.7 of the NALC Regulations Governing Branch Election Procedures clearly states that voting must take place at a branch meeting unless the Branch By-laws allow the Branch to designate a different location. In addition, Article 3, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that the location of Branch meetings is to be designated in the Branch By-laws.

Accordingly, the Branch cannot vote to change the location of the November election meeting if doing so would be inconsistent or in conflict with the current Branch By-laws. Moreover, this requirement cannot be circumvented by calling a special meeting under Article 3, Section 2 of the CGSFB.

However, I must offer the following qualification.

It would not be appropriate for me to address whether the Branch 920 By-laws, as presently written, actually require that the November meeting take place at a particular location or whether the By-laws would prevent a change. Disputes over the interpretation of Branch By-laws must be addressed, in the first instance, at the Branch level. As President of the Branch, you have the authority to rule on the meaning and application of the By-laws. However, your decision would be subject to appeal to the Branch under Article 11, Section 1 of the CGSFB.

### **KENNETH LERCH, ROCKVILLE, MD, BRANCH 3825**

**August 28, 2017 (6703 & 6704)**

Your August 8 email requests guidance regarding situations where enough members leave a regular monthly meeting so as to cause the number of remaining members to fall below a quorum.

Article 3 of the Constitution for the Government of Subordinate and Federal Branches contains the basic provisions governing Branch meetings. Section 4 of Article 3 states that "The Branch shall be called to order at the time prescribed in the by-laws if a quorum be present." Previous rulings have recognized that this language requires that a quorum be present before any Branch meeting may be called to order. In addition, the rulings have also noted that, as a general rule, no official Branch business should be conducted at a meeting at which a quorum is not present.

Apart from the foregoing, the Constitution does not otherwise prescribe what actions a Branch must take if there is a loss of a quorum after the meeting has properly been called to order. For example, there is no language in the Constitution requiring that the officers and members still present immediately disband and terminate any ongoing discussions. However, it would be improper for any official Branch business to be transacted (e.g., a vote on a motion to authorize

an expenditure of branch funds), if the number of members in attendance has fallen below a quorum.

Please note that the above comments address only the requirements provided by the NALC Constitution. It is your obligation to interpret any additional provisions which may be set forth in the Branch 3825 By-laws. In addition, I cannot advise you on the application of Robert's Rules or any other rules of parliamentary procedure.

Your August 11 email asks whether Branch 3825 may permit members to participate in Branch meetings remotely using a video connection.

So far as I am aware, the NALC has little experience, if any, with remote electronic participation in Branch meetings. We have allowed at least one Branch to establish a remote meeting location where members may assemble to participate in a Branch meeting in another location through a video connection. However, I am not aware of any situations where members have been permitted to participate in Branch meetings through individual video connections.

Such a procedure could give rise to constitutional issues, particularly with respect to voting and potential unauthorized participation by non-members, which I am reluctant to address without a better understanding of the facts. Accordingly, please provide me with a detailed description of how the proposal is to be implemented, including a statement describing how the Branch intends to address voting issues and any security measures the Branch may implement. I will respond promptly upon receipt of your statement.

### **TIMOTHY AUGUSTINE, ELMA, NY, BRANCH 3**

**August 28, 2017 (6705)**

This is in reply to your letter, received by my office on August 14, 2017, inquiring whether you are entitled to recognition as a thirty year member under Article 2, Section 5 of the NALC Constitution. According to your letter, you had a one or two month break in membership in 1999, but your membership from May 1985 to the present otherwise totals 32 years.

If the facts set forth in your letter are accurate, then the answer to your question is yes. Article 2, Section 5 does not require that a member's years of membership be continuous; it only requires that the total years of membership satisfy the designated thresholds. Accordingly, based on the information in your letter, you would qualify for a lapel pin.

### **MIKE HAYDEN, NORTHWOOD, OH, BRANCH 100**

**August 28, 2017 (6650)**

This is in reply to your letter, dated June 22, 2017, requesting dispensation permitting Scott Thompson to rejoin the NALC as a retiree member of Branch 100.

Unfortunately, I must decline your request. The NALC Constitution requires that a retiring member execute a Form 1189 at the time of retirement

in order to maintain his/her status as a regular member of the NALC. See Article 2, Section 1(e). It is clear that Mr. Thompson failed to do so.

Moreover, it is NALC's practice to mail blank Form 1189 at least twice to retiring members before formally terminating their membership. At my request, Secretary-Treasurer Rhine's office looked into this matter and was unable to find any information which would explain Mr. Thompson's failure to submit a Form 1189 in a timely manner. Your letter does not address this issue.

In sum, the information before me does not provide any basis for permitting Mr. Thompson to rejoin the NALC at this time.

### **ROSLYNN ANGEL, PAHIA, HI, BRANCH 2932**

**August 28, 2017 (6706)**  
Your email to NALC Director of City Delivery Christopher Jackson, sent August 14, 2017, has been referred to me for reply insofar as you have asked questions involving interpretation of the NALC Constitution and election regulations.

At the outset, I cannot comment on the specific situation in Branch 2932 based on the limited information in your email, particularly since I only have your side of the story before me. However, I can provide the following responses to your specific questions.

First, a Branch President cannot be "ousted from his position with a petition" as suggested in your email. Branch officers may only be removed in accordance with the provisions of Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Section 1 of Article 10 provides that officers may be removed for "fail[ure] or neglect to discharge the duties of his/her office" or for "gross misconduct." Article 10 permits such removal only after the procedures described therein are implemented, i.e. filing and service of written charges, investigation and report by a committee of disinterested members, and a vote by the members at a meeting as to guilt or innocence and the appropriate penalty.

Second, Article 4, Section 2 of the CGSFB provides that branch officers "shall be elected for a term of one (1), two (2) or three (3) years." As noted in the NALC Regulations Governing Branch Election Procedures, the "Branch by-laws should state whether the elections will be for one, two, or three year terms of office." Accordingly, the length of Branch 2932's officers' terms of office, and the years in which elections are to be held, are determined by the Branch By-laws.

Third, special elections are generally held only to fill vacancies in Branch officer positions. The Constitution does not otherwise authorize special elections to challenge incumbent officers.

### **MICHAEL YERKES, WOBURN, MA, BRANCH 34**

**August 28, 2017 (6729)**

This is in reply to your letter, dated August 15, 2017, requesting a ruling to allow you to appoint Brother Brian Senior to the position of shop steward in the Needham, MA Post Office, notwithstanding the fact that he has served as a supervisor as recently as April, 2016. According to your

letter, Brother Senior is a former steward and is the only candidate willing to serve.

At the outset, I fully appreciate Brother Senior's twenty six years of membership and prior service as a steward. I also appreciate the persuasive reasons for appointing him which you expressed in your letter.

Nonetheless, I simply cannot grant your request to reappoint Brother Senior as steward. Article 5, Section 2 of the 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.) There are no exemptions from this rule.

I recognize that appointing Brother Senior may be in the best interest of the membership. Nonetheless, the Constitution prohibits you from appointing him until a period of two years has elapsed following the termination of his supervisory status. Accordingly, I cannot provide a favorable reply to your request.

#### **JERREL KINLOCH, FORT LAUDERDALE, FL BRANCH 2550**

**September 15, 2017 (6751)**

This is in reply to your letter, dated September 14, 2017, advising that you cancelled Branch 2550's regular meeting, which had been scheduled for September 12, 2017, because of Hurricane Irma. This was clearly an appropriate decision for you to make as Branch President.

In response to your request, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 2550 dispensation to conduct its September regular meeting on September 19 or 26, at your discretion. Once you have settled on the date, please provide timely notice to the members, as indicated in your letter.

#### **JOSEPH HENSCHEN, PINELLAS PARK, FL BRANCH 1477**

**September 20, 2017 (6707)**

Your letter to NALC Secretary-Treasurer Nicole Rhine, dated August 10, 2017, has been referred to me for reply. Your letter requests dispensation permitting former member Joseph Rudolph to rejoin the NALC as a retiree member of Branch 1477.

The information provided with your letter indicates that this individual was not aware that his membership had lapsed, and that no Form 1189 had been processed on his behalf. Apparently, he did execute a Form 1189 but his paperwork was misplaced.

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. Brother Rudolph must pay

all dues that accrued during the period when his membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Rhine and the NALC Membership Department to process Brother Rudolph's Form 1189 and to calculate the back dues and make all necessary arrangements for payment.

#### **STEVE MILLER, WINCHESTER, VA, BRANCH 694**

**September 20, 2017 (6749)**

This is in reply to your letter, dated August 31, 2017, requesting special dispensation that would allow Brother Justin Stone to serve as President of Branch 694, notwithstanding the fact that he served as a 204b supervisor for two months within the past two years. According to your letter, he last served eight months ago. You also indicate that the previous two presidents left to go into management, and that Brother Stone is now the only member willing to serve.

At the outset, I fully appreciate your ten years of service as the Branch's Secretary-Treasurer and your willingness to serve as "Acting President" for the time being. I also appreciate the persuasive reasons for appointing Brother Stone which you expressed in your letter.

Nonetheless, I simply cannot grant your request to allow Brother Stone to serve as President. Article 5, Section 2 of the 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." There are no exemptions from this rule.

Accordingly, the Constitution prohibits Brother Stone from serving as a Branch officer until a period of two years has elapsed following the termination of his supervisory status. Therefore, I cannot provide a favorable reply to your request.

#### **ERIC SLOAN, DECATUR, GA BRANCH 73**

**September 26, 2017 (6759)**

This is in reply to your letter, dated September 18, 2017, requesting that I rule on the validity of a motion made at the Branch 73 meeting on September 14. According to your letter, the motion calls for you to prepare a letter stating that former Branch President Ben Jackson and the current members of the Branch Executive Board had been exonerated of charges filed against them in November, 2015. The motion also would require the Branch to mail copies of the letter to all retiree members and to post copies on all the Branch 73 post offices and bulletin boards. You also note that Brother Jackson has declared that he will be a candidate for Branch President in the November, 2017 election.

At the outset, I must observe that it would be entirely inappropriate for me to issue a presiden-

tial ruling on this matter. The issue is clearly an internal Branch matter, potentially impacting the upcoming election, which must be addressed, in the first instance, at the Branch level. I can offer the following general guidance.

First, Section 9.4 of the NALC Regulations Governing Branch Election Procedures prohibits the use of Branch funds "to promote one candidate over another." This prohibition is also provided by federal law. Additionally, the Department of Labor's union election regulations provide that union funds may not be "used for issuing statements involving candidates in the election." 5 C.F.R. 452.73.

Second, as Branch President, you may rule the motion out of order and decline to implement it if you conclude that distribution of the letter at Branch expense would violate the above prohibitions. Your decision, however, would be subject to appeal under Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

Third, the Branch's compliance or non-compliance with the motion could be raised as an issue in a post-election appeal.

#### **TOBY WOLF, LAFAYETTE, IN, BRANCH 466**

**September 26, 2017 (6758)**

This is in reply to your recent letter, faxed to NALC Headquarters on September 14, 2017, requesting dispensation to add the office of MBA Representative to the election ballot in the upcoming election of officers in Branch 466. According to your letter, the Branch has recently enacted a By-law amendment creating this position, which has not yet been approved by the Committee of Laws. Additionally, the position was not listed in the notice of nominations and election that the Branch sent to the Postal Record.

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, with two qualifications. First, installation of the winning candidate will have to be deferred until the Committee of Laws approves the By-law amendment. Second, the Branch must mail to each member a supplemental notice of nominations and election which references the office of MBA Representative. If the Branch cannot do so in a timely manner, then it will not be possible to include the MBA Representative in the 2017 regular election. The Branch could then fill the position (after the Committee approves its creation) only by appointment by the Branch President or by a special election.

By copy of this letter I am directing Assistant Secretary-Treasurer Judy Willoughby, who is Chairperson of the Committee of Laws, to review the By-law amendment to be submitted by Branch 466 as expeditiously as possible upon receipt.

#### **FELICIA VERVILLE, NASHVILLE, TN BRANCH 4**

**September 27, 2017 (6760)**

This is in reply to your letter, faxed to my office on September 19, 2017, requesting that I

provide advice regarding the timing and deposit of the compensation of the Branch 4 President and office secretary in light of provisions of the Branch By-laws.

While I appreciate your concerns, it would be entirely inappropriate for me to comment on the questions posed in your letter. 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 issues you raise may be submitted to the Branch as an appeal from the apparent decision of the Branch Executive Board 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. This letter should not be read to express any position as to the merits of such an appeal.

**SHIRLEY HISE, SUN CITY, AZ, BRANCH 6156  
September 28, 2017 (6771)**

Your email to NALC Secretary-Treasurer Nicole Rhine, sent September 16, 2017, has been referred to me for reply. Your email requests clarification on the rules applicable to the use of the NALC logo on campaign material in Branch elections.

Consistent with federal law, the NALC Regulations Governing Branch Election Procedures (RGBEP) generally prohibit the use of union funds and resources to support or oppose candidates in Branch elections. See RGBEP Sections 9.4 and 9.7. The NALC logo is a registered trademark of the NALC. Therefore, Branches should treat the use of the logo by candidates as a prohibited practice and should try to prevent it.

However, the mere fact that a candidate has included the logo on campaign material does not necessarily invalidate a Branch election, or require that a rerun election be conducted. The question whether the use of the logo may have affected the outcome of the election would have to be considered in light of all relevant circumstances in the context of a post-election appeal under Section 21 of the RGBEP.

It would be inappropriate for me to comment on the apparent use of the logo by a candidate in the 2017 Branch 6156 election, insofar as this issue could be raised in a post-election appeal. However, you may share this letter with other candidates to put them on notice that the NALC logo should not be used. This letter should not be read to express any view as to the merits of any post-election appeal.

**CARLY HOOK, SANTA CLARA, CA, BRANCH 1427**

**October 11, 2017 (6750)**

Your email to NALC Secretary-Treasurer Nicole Rhine, sent September 6, 2017, has been re-

ferred to me for reply, insofar as you have raised an interpretive issue under the NALC Constitution. Specifically, you ask whether Branch 1427 would be required to conduct a special election if it amends its By-laws to provide a new full-time officer position.

I assume that the existing Branch By-laws do not contain any provisions requiring a special election to fill vacancies in existing officer positions. If that is the case, then as soon as the amendment is adopted and approved by the Committee of Laws, you would have the authority, as Branch President, to fill the new position by appointment, in accordance with Article 4, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. The appointed officer would be entitled to serve until the next regular election of Branch officers.

**LAWRENCE KANIA, BUFFALO, NY, BRANCH 3  
October 11, 2017 (6772)**

This is in reply to your letter, dated September 14, 2017, which requests that I resolve an apparent dispute over your authority to limit station visits by Branch 3 officers. According to your letter, officers are visiting stations ostensibly to investigate issues without your knowledge or authorization. Your letter suggests that such unauthorized actions are inconsistent with Article 2, Section 6 of the Branch 3 By-laws.

Please be advised that it would be entirely inappropriate for me to issue a ruling resolving the By-law question. As National President, it is my responsibility to interpret the NALC Constitution. Disputes over the interpretation or application of Branch By-laws must be resolved, in the first instance, at the Branch level.

I can advise you as to the relevant provisions of the NALC Constitution. 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. The President, therefore, retains the ultimate authority to supervise other officers in the performance of their representational duties.

Of course any restrictions you may impose on other officers' activities could be appealed to the Branch under Article 11, Section 1 of the CGSFB. The Branch's decision would be subject to appeal to the National Committee on Appeals. I express no view as to the merits of any such appeal.

**JOSEPH HENSCHEN, PINELLAS PARK, FL,  
BRANCH 1477**

**October 11, 2017 (6773)**

Your letter to NALC Secretary-Treasurer Nicole Rhine, dated August 15, 2017, has been referred to me for reply. Your letter requests dispensation permitting former member Dale Marcks to rejoin the NALC as a retiree member of Branch 1477.

The information provided with your letter indi-

cates that this individual was not aware that his membership had lapsed, and that no Form 1189 had been processed on his behalf. Apparently, he did execute a Form 1189 but his paperwork was misplaced.

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. Brother Marcks must pay all dues that accrued during the period when his membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Rhine and the NALC Membership Department to process Brother Marcks' Form 1189 and to calculate the back dues and make all necessary arrangements for payment.

**ROBERT TUCKER, BARRE, VT BRANCH 617  
October 11, 2017 (6775)**

This is in reply to your recent letter, received by my office on September 22, 2017, 2017, asking how Branch 617 should fill the current vacancy in the office of Branch President. According to your letter, the previous President has resigned.

The answer to your question is governed by the NALC Constitution. Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires that the Vice President of the Branch succeed to the Presidency in the event that the President leaves office. The Vice President, upon becoming President, would then have the authority to fill the resulting vacancy in the office of Vice President by appointment, as provided by Article 4, Section 2 of the CGSFB, unless the Branch has enacted By-laws which provide an order of succession.

Accordingly, the facts set forth in your letter indicate that Vice President Jared Rich should be installed as President. He will then have the authority to appoint a new Vice President.

**ROGER BLEDSOE, HOT SPRINGS, AR,  
BRANCH 576**

**October 11, 2017 (6789)**

This is in reply to your email, sent October 6, 2017, concerning an inquiry you have received from Branch 576 President Phil Dufek. The question presented is whether a CCA who has opted on to a hold-down assignment in a different station is eligible to be nominated for a steward position in either her current office, where the opt is located, or the office to which she was originally assigned but not working at the time of nominations.

Generally speaking, the NALC Constitution does not contain any provisions prohibiting the election of a member working in one station to serve as a steward in another station. 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 the member in question is eligible for nomination in either office under the Branch By-laws.

However, it would be inappropriate for me to address the meaning of the Branch By-laws. The interpretation and application of the By-laws must be addressed, in the first instance, at the branch level. As President of the Branch, Brother Dufek has the authority to interpret the By-laws. His decision would be subject to appeal to the Branch under Article 11 of the CGSFB.

**MEI RODENBUSH, WESTWOOD, MA, BRANCH 742**

**October 13, 2017 (6777)**

This is in reply to your letter, dated September 25, 2017, requesting that I appoint a neutral party to conduct the election of officers in Branch 742. According to your letter, the Branch has conducted nominations without having provided a notice of election to the members and is otherwise not complying with the NALC Constitution and the Branch's By-laws.

I do appreciate your concerns. However, it would be entirely inappropriate for the National Union to intervene in this matter at this time, particularly since I only have your side of the story before me. All objections to the conduct of an election must be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. A member cannot by-pass the appeal procedure by seeking a ruling from the National President.

**CHIMETRIA PHELPS, TALLAHASSEE FL, BRANCH 1172**

**October 13, 2017 (6790)**

This is in reply to your letter, dated September 25, 2017, requesting dispensation permitting Branch 1172 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 1172 may conduct a special election of President and Vice President for the remainder of the current terms of office.

**JAMES GLEASON, BEVERLY, NJ, BRANCH 920**

**October 19, 2017 (6792)**

This is in reply to your recent letter, received by my office on October 10, 2017, concerning the upcoming election of officers in Branch 920.

Your letter asserts that I "decided to keep our election in November at our farthest location." That is not accurate. For your information, I am enclosing a copy of my letter to Branch President Gardner, dated August 28, 2017.

My letter advised that the Branch cannot vote to change the location of the November election meeting if doing so would be inconsistent or in conflict with the current Branch By-laws. How-

ever, I also noted that it would not be appropriate for me to address whether the Branch 920 By-laws, as presently written, actually require that the November meeting take place at a particular location or whether the By-laws would prevent a change. Disputes over the interpretation of Branch By-laws must be addressed, in the first instance, at the Branch level.

As President of the Branch, Brother Gardner does have the authority to rule on the meaning and application of the By-laws. However, his decision is subject to 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 under Article 11, Section 2 of the CGSFB.

In addition, the Branch may amend its By-laws under Article 15 of the NALC Constitution. In particular, 11.7 of the NALC Regulations Governing Branch Election Procedures explicitly permits Branches to adopt By-laws providing for different methods of voting, including the designation of a polling place other than the Branch meeting.

**CHRISTOPHER BURSON AND PATRICK MICHAEL, MODESTO, CA, BRANCH 1291**

**October 23, 2017 (6809)**

This is in reply to your letter, dated October 17, 2017, requesting dispensation to postpone Branch 1291's nominations and election of delegates to the 2018 National Convention by one month. According to your letter, nominations were supposed to be held in November and the election in December, this year. You now request permission to hold nominations at the Branch's December 7 meeting and the election at the January 4 meeting. This request is necessitated by the Branch's inadvertent failure to arrange for timely publication of a notice of nominations and election in the Postal Record.

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 appropriate and timely notice is provided to the members.

Please understand that this dispensation applies only to the 2017 nomination and 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.

**JOE CUIFALO, WOLCOTT, CT, BRANCH 20**

**October 26, 2017 (6812)**

This is in reply to your recent letter, received by my office on October 24, 2017. Your letter asserts that campaign violations may have occurred in connection with the election of officers in Branch 20. You also suggest that the Branch President has acted unfairly with respect to a proposal to have stewards elected instead of appointed.

While I appreciate your concerns, I must advise that it would be inappropriate for me to comment on your specific claims, particularly since I

only have your side of the story before me. I can, however, provide the following guidance.

Any member claiming that violations have occurred affecting a branch election of officers may submit those claims in the form of a post-election appeal to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. Objections to a Branch President's conduct regarding a proposal to amend the Branch By-laws may be appealed to the Branch in accordance with Article 11 of the Constitution for the Government of Subordinate and Federal Branches. Please note that the Constitution and the election regulations are available on the NALC's web site.

**RAFAEL CARRANZA, LAREDO, TX, BRANCH 354**

**October 27, 2017 (6814)**

This is in reply to your letter, dated October 26, 2017, requesting dispensation to postpone Branch 354's nominations of delegates to the 2018 National Convention to its November meeting. According to your letter, nominations were supposed to be held at the October meeting, but the Branch inadvertently neglected to conduct nominations, after its officers were elected by acclamation.

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, provided that the Branch can provide appropriate and timely notice to the members. If it is no longer possible to provide timely notice, the Branch may conduct nomination of delegates at its December meeting and conduct an election, if necessary, in January.

Please understand that this dispensation applies only to the 2017 nomination and 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.

**MICHAEL BYRD, PUYALLUP, WA, BRANCH 1484**

**October 27, 2017 (6815)**

This is in reply to your letter, dated October 17, 2017, requesting dispensation to postpone Branch 1484's nominations and election of officers and delegates by one month. According to your letter, nominations were supposed to be held in October and the election in November. You now request permission to hold nominations at the Branch's November meeting and the election at the December meeting. This request is necessitated by the unfortunate fact that no members were able to attend the October meeting because they were required to work late.

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 appropriate and timely notice is provided to the members.

Please understand that this dispensation ap-

plies only to the 2017 nomination and election. 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.

**JOHN LAVALLEE, WORCESTER, MA, BRANCH 12**

**October 30, 2017 (6824)**

This is in reply to your letter, dated October 26, 2016, requesting dispensation to redo Branch 12's recent mail ballot election of officers and stewards. According to your letter, the initial mail ballot suffered from a serious error. Specifically, the printer failed to print the voters' names and addresses on the reply envelopes. The printed names and addresses are used by the Election Committee to verify the eligibility of voters.

I agree that the circumstances described in your letter justify a re-mailing of ballots and instructions with corrected reply envelopes. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution I hereby grant Branch 12 dispensation to mail out corrected ballots and to extend the time of the election beyond any deadlines provided by the Branch By-laws. The initial ballots that the Branch receives should not be counted but should remain sealed and retained by the Branch pending any post-election appeals.

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

**November 3, 2017 (6832)**

This is in reply to your letter, dated November 3, 2017, requesting dispensation to cancel and reschedule Branch 182's current election for the offices of Trustees and Sergeant-at-Arms. According to your letter, the instructions accompanying the absentee ballots which have been mailed out suffered from a serious error. Specifically, the ballot fails to indicate that members should vote for up to 3 Trustees and only 1 Sergeant-at-Arms.

I agree that the circumstances described in your letter justify a re-mailing of corrected absentee ballots and instructions. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution I hereby grant Branch 182 dispensation to mail out corrected ballots and to reschedule the time of the election, notwithstanding any deadlines specified in the Branch By-laws. Any initial absentee ballots that the Branch receives should not be counted but should remain sealed and retained by the Branch pending any post-election appeals.

This dispensation is based solely on the question of faulty absentee ballot instructions. I express no view as to the conduct of individual candidates described in your letter. I can provide the following guidance with respect to the procedures for requesting absentee ballots.

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 or addressed envelopes 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.

**RENE EBERHARDT, CASPER, WY, BRANCH 1681**

**November 9, 2017 (6823)**

Your letter to NALC Assistant Secretary-Treasurer Judy Willoughby, dated October 20, 2017, has been referred to me for reply, insofar as your letter raises questions involving the NALC Constitution's provisions on national elections.

First, there is no ballot fee or other charge for running for national office.

Second, the eligibility qualifications for candidates for national office are set forth in Article 6, Section 4 of the NALC Constitution, which reads, in pertinent part, as follows:

Sec. 4. All regular members shall be eligible to hold any office in the National Association, except that only retired members are eligible for the office of Director of Retired Members. . . . Upon termination of such supervisory status, such member shall be ineligible for election to any office for two (2) years. Upon nomination, the candidate must certify that he/she has not served in a supervisory capacity for the 24 months prior to the nomination.

With regard to social media, I can advise you that campaign postings are not presently permitted on the NALC Facebook page. Any such material posted as a comment will be deleted. In addition, federal law generally prohibits the use of union funds and resources to support or oppose candidates in Branch elections. For example, the NALC logo is a registered trademark of the NALC, and is, accordingly, the property of the union. Therefore, the use of the logo by candidates is a prohibited practice.

Apart from the foregoing, the NALC Constitu-

tion does not presently contain any provisions addressing the use of social media by individual members in connection with campaigns for union office.

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

**November 9, 2017 (6838)**

This is in reply to your letter, dated November 8, 2017, concerning the ongoing Trustees election in Branch 182.

As I indicated in my previous letter, Section 11.5 of the NALC Regulations Governing Branch Election Procedures (RGBEP) requires the Branch Election Committee to send absentee ballots to any member who submits a timely request for one, so long as the member is unable to vote during the time the polls are open. The Committee may reject requests that it believes are fraudulent, i.e., requests that it believes were not actually made by the voter. Additionally, the Committee may reject requests that were not submitted in accordance with a procedure for requesting absentee ballots that had been previously established by the Committee. Apart from these issues, it should not be significant whether a candidate paid for the postage on a mailed request actually sent by the voter, or whether the candidate hand delivered a request actually submitted by the voter.

With regard to your second question, it would be entirely inappropriate for me to comment on allegations of campaign misconduct by candidates. Any such allegations must be resolved through the post-election appeal procedure set forth in Section 21 of the RGBEP. This letter should not be read to suggest that any appeal would or would not have merit.

**JILL LEMONS, CANOGA PARK, CA, BRANCH 4006**

**November 16, 2017 (6841)**

This is in reply to your letter, received by my office on November 14, 2017, requesting dispensation to postpone Branch 4006's nominations and election of delegates to the 2018 National Convention. According to your letter, the Branch inadvertently missed the applicable deadlines for the election due to the illness and resignation of its former Secretary-Treasurer.

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 Branch must provide appropriate and timely notice to the members. The Branch should make its best efforts to provide sufficient notice to conduct nomination of delegates at its December meeting and an election, if needed, in January.

Please understand that this dispensation applies only to the nomination and election of delegates to the 2018 National Convention. 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.

**CHIMETRIA PHELPS, TALLAHASSEE, FL,  
BRANCH 1172**

**November 16, 2017 (6842)**

This is in reply to your letter, dated November 8, 2017, concerning the special election that Branch 1172 will be conducting for President and Vice President, pursuant to the dispensation I granted in my letter of October 13. According to your letter the Branch failed to conduct nominations and an election of delegates to the 2018 National Convention. You now request dispensation to include the nominations and election of delegates in the special 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. The Branch must provide appropriate and timely notice to the members that nominations and election of delegates will be conducted with the nominations and election of President and Vice President.

Please understand that this dispensation applies only to the nomination and election of delegates to the 2018 National Convention. 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.

**SCOTT WILLIAMS, JERSEY CITY, NJ BRANCH  
42**

**November 30, 2017 (6860)**

This is in reply to your letter, dated November 30, 2017, requesting dispensation to redo Branch 42's recent mail ballot election of officers. According to your letter, the initial mail ballot suffered from a serious error by the Branch's printer. Specifically, the reply envelopes are addressed to the wrong Post Office box.

I agree that the circumstances described in your letter justify a re-mailing of ballots and instructions with corrected reply envelopes. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution I hereby grant Branch 42 dispensation to mail out corrected ballots and to extend the time of the election beyond any deadlines provided by the Branch By-laws. Any ballots that the Branch receives from the first mailing should not be counted but should remain sealed and retained by the Branch pending any post-election appeals.

**ERIC SLOAN, ATLANTA, GA, BRANCH 73**

**December 7, 2017 (6875)**

This is in reply to your letter, faxed to my office on December 1, 2017, requesting dispensation to extend the deadline for counting ballots in the ongoing mail ballot election of officers and delegates in Branch 73 from December 14 to December 21. According to the Branch Election Chairman, there was a delay in the mailing out of the ballots due to problems with the Branch's election contractor.

I agree that the circumstances described in your letter justify the requested extension. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution I hereby

grant Branch 42 dispensation to mail out corrected ballots and to extend the time of the election to December 21, notwithstanding any deadlines provided by the Branch By-laws.

Please understand that this dispensation applies only to the 2018 election of officers and 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.

**MATT TANNER, LANSING, MI, BRANCH 122**

**December 12, 2017 (6878)**

This is in reply to your letter, received by my office on December 8, 2017, inquiring whether Douglas Peters II, a member of Branch 122, has been disqualified from serving as a delegate to the 2018 NALC National Convention. According to your letter, Brother Peters may have applied for an EAS safety position.

Article 5, Section 2 of the NALC Constitution provides that a member who holds, accepts, or applies for a supervisory position is not eligible to serve as a convention delegate for a period of two years. 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. The letter from Brother Peters to postal management, which you provided with your letter, does not indicate that the safety position in question carries such authority. 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 you discover additional information indicating that the safety position does entail supervisory responsibilities, then you may have to advise Brother Peters that he cannot serve as a delegate.

Apart from the foregoing, it is also not clear that Brother Peters' letter constitutes an application for a supervisory position. 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, text message, 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 Brother Peters' interactions with management for me to offer an opinion as to whether he applied for a supervisory position. In any event, it is your responsibility as Branch President to determine whether he has been disqualified for Branch office under the

foregoing principles. If necessary, you may discuss the issue with management to clarify this question.

**MICHAEL CAREF, MELROSE PARK, IL,  
BRANCH 2183**

**December 13, 2017 (6879)**

This is in reply to your email, sent December 8, 2017, concerning the decision by the members of Branch 2183 to suspend the President and Vice President of the Branch. The remaining members of the Executive Board have requested that I grant special dispensation permitting Brother John Trimarco to serve as interim President of the Branch during the term of the suspension.

I assume that Brother Trimarco is eligible to serve as a Branch officer under the Constitution. 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. Brother Trimarco may serve as interim President during the term of the suspension.

I trust that the foregoing addresses the concerns of the Branch officers. However, this ruling is without prejudice to any appeal that may be brought concerning the Branch decision to impose the suspension at issue.

**ALONZO CORTEZ, FORT WORTH, TX,  
BRANCH 226**

**December 15, 2017 (6880)**

This is in reply to your letter, dated December 6, 2017, inquiring whether you and Sister Claudia Milton may be named delegates to the 2018 National Convention from Branch 226. According to your letter, you and Sister Milton were not nominated along with the other delegates at the Branch's nominations meeting in November.

Unfortunately, the Constitution does not permit Branch 226 to simply appoint you 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 you and Sister Milton. 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, you and Sister Milton would be welcome to attend the Convention as guests.

**KRISTIAN HALLER, FAIRPORT, OH, BRANCH 549**

**December 27, 2017 (6882)**

This is in reply to your letter, dated December 15, 2017, requesting dispensation permitting Branch 549 to conduct a special election of officers, who will also serve as convention delegates under the Branch By-laws. According to your letter, the incumbent President and Vice President have resigned. You also advise that the Branch failed to conduct the regular election of officers that should have been held in May of this year.

It does appear that a special election is necessary. 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 549 shall conduct a special election of officers and delegates for the remainder of the current terms of office.

**ROBERT FALSO, WARWICK, RI, RHODE ISLAND STATE ASSOCIATION**

**January 8, 2018 (6894)**

This is in reply to your letter, dated December 17, 2017, advising that you are resigning as President of the Rhode Island State Association. Your letter seeks guidance as to how the State Association should fill the resulting vacancy, insofar as the current Vice President, Jim Langlois, has also apparently resigned.

With regard to your question, normally the Vice President of a State Association would succeed to the Presidency pursuant to Article 8, Section 2 of the Constitution for the Government of State Associations. However, if the Vice President has resigned, the constitutional succession cannot be implemented.

According to your letter, the Rhode Island State Association By-laws do not provide for a succession to the office of Vice President. Under these circumstances, the only apparent solution would be to conduct a special election for President. The new President could then appoint a Vice President, and fill any other officer vacancies which may result by appointment.

I am prepared to authorize a special election. However, I am providing a copy of this letter to the other officers and Executive Board members. I invite them to provide me with any alternative solutions to the problem. I will defer making a final decision pending receipt of a reply from the State Association.

**GLENN BELT, EVANSVILLE, IN, BRANCH 377**

**January 8, 2018 (6895)**

This is in reply to your recent letter, received by my office on December 26, 2017, in which you raise two questions pertaining to election procedures in Branch 377.

With regard to your first question, please be advised that neither the NALC Constitution nor the NALC Regulations Governing Branch Election Procedures contain any provisions requiring Branches to provide nominees or observers with copies of the Branch's voter eligibility list. However, the Branch must treat all candidates equally.

Therefore, if it provides a list to one candidate, then it must provide all other candidates with an equal opportunity to obtain their own copies.

Your second question concerns the voting rights of members in 204b status. 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, 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 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. Accordingly, if a 204b returns to a bargaining unit assignment, the member would at that point have the right to vote in the election.

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 RGBEP.

**RANDOLPH FLEMISTER, ATLANTA, GA, BRANCH 73**

**January 8, 2018 (6896)**

This is in reply to your letter, dated January 2, 2018, seeking clarification of the eligibility of certain members to vote in the recent election of officers in Branch 73. According to your letter, several members' votes were not counted because they "were not in good standing due to outstanding financial obligations."

At the outset, I cannot comment on whether the Branch 73 Election Committee should or should not count any particular ballots, particularly in light of the extremely limited information provided in your letter. I can, however, provide the following general guidance which the Committee may apply to the particular facts of each case.

Neither the Constitution nor the NALC Regulations Governing Branch Election Procedures (RGBEP) conditions the right to vote on "good standing." Rather, Article 5, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) states that "All regular members shall be entitled to one vote for each office or position to be filled." Similarly, Section 11.4 of the RGBEP states that, "Each regular branch member, as defined in Article 2, Section 1(a) of the NALC Constitution, is entitled to one vote for each position to be filled." Accordingly, members are not automatically disqualified from voting because they are in arrears in their dues payments or have failed to pay an individual debt owed to the Branch.

Of course, members who are in arrears in their dues payments may eventually forfeit their membership under Article 7, Section 4 of the CGSFB. Members who fail to pay an individual debt to the Branch may be suspended from membership under Article 10 of the CGSFB. In either of these situations, the former or suspended member would not be eligible to vote. However, your letter does not indicate whether any of the members in question have been found to have forfeited their membership for non-payment of dues or were otherwise suspended from membership.

In any event, it is the Committee's responsibility to rule on the eligibility of each voter based on his/her individual circumstances.

**CINDY GROVES, RENO, NV, BRANCH 709**

**January 8, 2018, (6899)**

This is in reply to your letter, dated December 21, 2017, regarding the recent election of officers in Branch 709. In particular, as Election Committee Chair, you seek guidance as to whether certain ballots should or should not be counted. According to your letter, the voters in question were in arrears in their dues payments.

At the outset, I appreciate your careful and balanced account of the situation presented. Nonetheless, I must advise that it would be inappropriate for me to decide whether or not the ballots should be counted. The Committee will have to make a decision which would be subject to further appeal under Section 21 of the NALC Regu-

lations Governing Branch Election Procedures (RGBEP).

I can provide the following general guidance.

Neither the Constitution nor the RGBEP conditions the right to vote on “good standing.” Rather, Article 5, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) states that “All regular members shall be entitled to one vote for each office or position to be filled.” Similarly, Section 11.4 of the RGBEP states that, “Each regular branch member, as defined in Article 2, Section 1(a) of the NALC Constitution, is entitled to one vote for each position to be filled.” Accordingly, members are not automatically disqualified from voting because they are in arrears in their dues payments or have failed to pay an individual debt owed to the Branch.

Of course, members who are in arrears in their dues payments may eventually forfeit their membership under Article 7, Section 4 of the 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 709 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 709 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.

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 Election Committee to apply the above guidelines to individual situations based on the particular fact circumstances. 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 RGBEP.

#### **MARILYN EVANS, MONTGOMERY, AL, BRANCH 106**

**January 9, 2018, (6898)**

This is in reply to your letter, dated December 29, 2017, requesting guidance regarding an error committed by Branch 106 in conducting its election of delegates. Specifically, you advise that the name of one nominee was inadvertently left off the election ballot.

Given the circumstances, it would appear that the Branch must conduct a new delegate election with a corrected ballot. In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 106 to conduct a late election for delegates to the National Convention at the earliest possible date. The Branch must provide timely notice of the new election to each member.

#### **MICHAEL WAHLQUIST, SALT LAKE CITY, UT, BRANCH 111**

**January 10, 2018 (6905)**

This is in reply to your email, sent January 9, 2018, concerning a potential amendment to the Branch 111 By-laws. Specifically, you ask whether the Branch would be required to conduct a special election if it amends its By-laws to provide a new full-time officer position of Executive Vice President.

Your email indicates that the existing Branch By-laws do not contain any provisions requiring a special election to fill vacancies in current officer positions. If that is the case, then as soon as the amendment is adopted and approved by the Committee of Laws you would have the authority, as Branch President, to fill the new position, and any other resulting vacancies, by appointment, in accordance with Article 4, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. The appointed Executive Vice President and any other appointed officer would

be entitled to serve until the next regular election of Branch officers.

#### **JAY CAMP, FRANKLIN PARK, IL, BRANCH 2183**

**January 12, 2018 (6917)**

This is in reply to your letter, faxed to my office on January 11, 2018, inquiring whether Branch 2183 may vote to rescind the six month suspensions of the Branch President and Vice President previously issued by vote of the members under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

As previous rulings have consistently held, the answer to this question is no. Article 10 of the CGSFB provides a detailed procedure for processing charges culminating in a branch vote on guilt or innocence and then a separate branch vote on the issue of penalty. Once this vote is taken, it is binding on the parties and the branch. The only means for overturning the vote provided by the Constitution is an appeal to the National Committee on Appeals under Article 11 of the CGSFB.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of any pending appeal.

#### **ALBERT WHITE, LOS ANGELES, CA, BRANCH 24**

**January 16, 2018 (6871)**

This is in reply to your email, sent November 30, 2017, in which you request that I reconsider the decisions of the NALC Committee on Appeals in Appeal Nos. 25 and 7.

Please be advised that I am declining your request. You may, however, seek review of the Committee’s most recent decision by submitting an appeal to the NALC National Convention, which will take place July 16-20, 2018. Article 11, Section 4(b) of the NALC Constitution sets forth the procedure for filing such an appeal. It provides, in pertinent part, as follows:

Any determination of the Committee on Appeals can be appealed by any aggrieved member, Branch, or State Association to the National Convention. To perfect such appeal, the aggrieved member, Branch, or State Association must, no later than sixty (60) days prior to the National Convention, file with the Committee on Appeals, by registered mail, a notice of appeal, together with a full written statement of the reasons why the appeal should be granted.

You may address any appeal to NALC Vice President Lew Drass, who serves as Chairman of the Committee.

This letter should not be read to express any view as to the merits of any appeal that you may submit.

#### **JON CALLOWAY, SPRINGFIELD, IL, BRANCH 80**

**January 16, 2018 (6918)**

This is in reply to your letter, received by my office on January 10, 2018, requesting dispensation permitting Branch 80 to conduct a special election of officers. According to your letter, the Branch failed to provide timely notice of its

2017 nominations and election. Although all the nominated officers were unopposed, you wish to correct the Branch's error to ensure a proper and democratic election process.

At the outset, your letter indicates that the Branch may not fully understand the applicable notice requirements. Article 5, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches and Section 5.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) require that a notice of nominations and election be sent by mail to each member of the Branch 45 days before the election, not 45 days before nominations. Section 6.1 of the RGBEP provides that the notice of nominations must be sent out 10 days before the date nominations are held.

The limited information contained in your letter does not indicate that the Branch failed to meet the above deadlines. However, your letter also indicates that the notice was never mailed to the membership, but simply posted on union bulletin boards. Such posting, by itself, does not satisfy the notice requirement.

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 80 shall conduct a special election of officers and delegates for the remainder of the current terms of office. Notice must be provided by mail to each member of the Branch, active and retired, in accordance with the time frames described above.

**CLARENCE BLAZE III, MOUNT CLEMENS, MI, BRANCH 654**

**January 17, 2018 (6924)**

This is in reply to your letter, dated December 29, 2017, requesting dispensation permitting former member Cheryl Guthrie to rejoin the NALC as a retiree member of Branch 654.

The information provided with your letter indicates that Sister Guthrie did execute a Form 1189 in a timely manner, but the form was misplaced and never submitted by the Branch.

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. Sister Guthrie must pay all dues that accrued during the period when his membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Rhine and the NALC Membership Department to process her Form 1189, calculate the back dues, and make all necessary arrangements for payment.

**KIMBERLY ARNHOLD, PASADENA, TX, BRANCH 3867**

**January 17, 2018 (6925)**

This is in reply to your letter, dated January 2, 2018, requesting that I issue a ruling to resolve an ongoing dispute over whether you remain obligated to pay back to Branch 3867 certain sums that you received several years ago. This dispute was the subject of charges against you that were considered recently by the NALC Committee on Appeals.

At the outset, the Committee's ruling, issued August 3, 2017, vacated your suspension from membership based on the Committee's finding that the charges had not been processed in accordance with constitutional requirements. Insofar as the Branch has apparently not taken any further action on the charges you remain an active member of the Branch.

The present dispute concerns two letters of demand that you have received from the Branch Financial Secretary. You now ask me to rule on the merits of the monetary claims against you.

While I appreciate your concerns, I must advise that it would be entirely inappropriate for me to intervene in this matter, particularly since I only have your side of the story before me. I can provide the following general guidance.

Article 11 of the Constitution of the Government of Subordinate and Federal Branches (CGSFB) provides a procedure for appealing the letters of demand. Initially, you may appeal the action of the Financial Secretary to the President of the Branch under Article 11, Section 1. If you are dissatisfied with the President's decision, you may then appeal to the Branch at its next meeting. The Branch's decision may be appealed to the National Committee in accordance with the procedures described in Article 11, Section 2.

If you choose not to initiate an appeal, you will nonetheless retain your membership status, in the absence of charges against you. Past rulings have concluded that the procedure for filing and adjudicating charges set forth in Article 10 of the CGSFB is the method that Branches must employ to enforce a debt claim where the existence and/or the amount of the debt is in dispute. 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. Absent Article 10 procedures, a simple motion at a Branch meeting is insufficient for this purpose.

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 your dispute with the Branch or any resulting appeal.

**MACK JULION, CHICAGO, IL, BRANCH 11**

**January 17, 2018 (6926)**

This is in reply to your letter, dated January 11, 2018, asking whether a member has been disqualified from serving as a convention delegate from Branch 11. According to your letter, the Branch has confirmed that this member recently applied for a supervisory position.

If the member did apply for a supervisory position, then the answer to your question is yes, he is disqualified. It does not matter whether or not he actually began work as a supervisor. As you recognize, 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 be a delegate to any Convention for a period of two (2) years after termination of such supervisory status.*" (Emphasis supplied.) There are no exemptions from this rule.

It is the responsibility of the Branch in the first instance to determine whether a candidate for a delegate position has, in fact, applied for a supervisory position. The Branch's determination is subject to appeal.

**RONNEY HARPER, DECATUR, GA, BRANCH 73**

**January 22, 2018 (6935)**

This is in reply to your letter, dated January 14, 2018, regarding your appeal of the recent election of officers in Branch 73.

I do appreciate your concerns. However, it would be entirely inappropriate for the National Union to intervene in this matter at this time. All objections to the conduct of an election, including issues regarding voter eligibility, must be brought in the form of a post-election complaint to the Branch Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. It is the responsibility of the Election Committee to rule on the issues raised by the appeal. The Committee's decision may be appealed to the Branch Executive Board. Thereafter, the matter will be subject to appeal to the Branch and to the National Committee on Appeals.

This letter should not be read as expressing any view as to the merits of any issues which may be raised in any pending appeal.

**NANCY RAY, SAN JOSE, CA, BRANCH 193**

**January 22, 2018 (6936)**

This is in reply to your letter, dated January 16, 2018, requesting an investigation into alleged improprieties that occurred during the recent shop steward election in Bayside Station.

I have reviewed your letter to NBA Almario. While I appreciate your concerns, I must advise that it would be inappropriate for me to intervene in this matter, or offer an opinion as to the specific dispute described in your letter, particularly since I only have your side of the story before me. I can provide the following guidance.

First, neither Article 5 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) nor the NALC Regulations Governing Branch Election Procedures (RGBEP) apply to 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."

Second, the conduct of a steward election must be consistent with any applicable provisions of the Branch By-laws. If there are no relevant By-law provisions, the Branch would have discretion to conduct the election in accordance with its established procedures.

Third, any member who believes that a stew-

ard election was conducted improperly, may initiate an appeal under Article 11 of the CGSFB. Thus, if the Branch President denies your complaint, or otherwise fails to act, you may appeal directly to the Branch under Article 11, Section 1 of the CGSFB. The decision of the Branch may be appealed to the National Committee on Appeals under Article 11, Section 2.

**CHARLES BONNER, PALM SPRINGS, CA,  
BRANCH 4149**

**January 29, 2018 (6937)**

This is in reply to your e-mail, sent January 23, 2018 concerning alleged misconduct by an officer of Branch 4149. Your email requests that I issue a presidential ruling suspending this officer pending an internal investigation of his conduct.

At the outset, while I appreciate your concerns, I must advise that there simply is no basis for any intervention by the National Union in this matter at this stage, particularly since I only have your side of the story before me. The dispute described in your letter must be addressed initially at the branch level. I can advise you of the following general principles.

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.

However, Article 6, Section 1 CGSFB provides that the Branch President shall “have general supervisory powers over the Branch,” which includes the authority to “see that officers perform their duties [and] enforce the Constitution, By-Laws, Rules and Regulations of the Branch.” As previous rulings have consistently recognized, this provision confers upon the Branch President supervisory authority over subordinate officers. Accordingly, the President has the authority to issue instructions to any subordinate officer with respect to the performance of his/her duties. In appropriate circumstances, this authority could involve temporarily reassigning duties to another officer.

Any such action, however, would be subject to appeal under the provisions of Article 11 of the CGSFB. As provided by Article 11, Section 1, any decision of the Branch President may be appealed to the Branch. The Branch’s decision may be appealed to the National Committee on Appeals in accordance with the procedures set forth in Article 11, Section 2 of the CGSFB. I express no view as to the merits of any potential appeal.

**STEVEN WEAR, BRANCH 47, DENVER, CO  
January 30, 2018 (6939)**

This is in reply to your letter, dated January 30, 2018, requesting that I issue a presidential ruling requiring Branch 47 to reimburse your expenses for attending the 2018 National Convention. According to your letter, you missed signing

the attendance roster at Branch meetings several times so that, apparently, you no longer meet the Branch’s meeting attendance requirement for payment.

While I appreciate your concerns, I must advise that it would be inappropriate for me to intervene in this matter. The issue you describe can only be resolved by the Branch. The NALC Constitution does not address the question of payment to members for attending conventions or other union sponsored events. The Branch has discretion to enact whatever eligibility criteria it chooses for such payments. Thus, it is up to the Branch to determine whether to require attendance at a minimum number of meetings as a condition of receiving payment. Likewise, the Branch is free to accept or deny justifications for non-attendance under the relevant provisions of its By-laws.

In light of the foregoing, I can only suggest that you raise your issue at a Branch meeting.

In closing, thank you for your interest in attending the Convention and for your continuing service as a steward.

**GEOFFREY BROWN, BELLWOOD, IL,  
BRANCH 11**

**February 1, 2018 (6945)**

This is in reply to your letter, dated January 24, 2018, asking whether you have been disqualified from serving as a convention delegate from Branch 11. According to your letter, you applied for a safety position in June, 2016 to accommodate an on-the-job injury.

With respect to your question, the NALC Constitution does disqualify members from serving as convention delegates if they applied for a supervisory position within the past two years, regardless of whether they have actually served as supervisors. As you recognize, the relevant provision is Article 5, Section 2 of the NALC Constitution which states 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 be a delegate to any Convention for a period of two (2) years after termination of such supervisory status.” (Emphasis supplied.) There are no exemptions from this rule.

The language covering applications was added to this provision by an amendment adopted at the 1988 National Convention in Portland, OR. The clear intent of the delegates was to disqualify applicants in addition to members who actually had worked as supervisors. The language has consistently been applied to applicants since the 1988 Convention.

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 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. Your letter does not contain sufficient information to determine

whether the safety position for which you applied carried such authority. If it did not, then you would not be disqualified from continuing to serve as a delegate.

This issue must be resolved at the Branch level. Please note that I am providing a copy of this letter to Branch President Julion. I would encourage you to discuss the matter with him. If the two of you continue to disagree, you may appeal his decision to the Branch under Article 11, Section 1 of the Constitution for the Government of Subordinate and Federal Branches.

**JOHN MISTHAL, WEST HAVEN, CT, BRANCH  
19**

**February 8, 2018 (6949)**

This is in reply to your letter, received by my office on February 1, 2018, concerning a pending election appeal in Branch 19. According to your letter, the Election Committee has denied the appeal, and the appellant has appealed to the next step. You now ask whether the Committee is required to distribute copies of its decision, the appeal, and statements when it reports its decision at the next Branch meeting.

Please be advised that there are no provisions in the NALC Constitution, or the NALC Regulations Governing Branch Election Procedures (RGBEP) which address this situation. Issues of communication regarding election appeals have been left to each Branch to resolve. Accordingly, if there are no relevant provisions in the Branch By-laws, the matter is left to the discretion of the Branch.

However, you should note that Section 21.2 of the RGBEP states that the Election Committee’s decision may be appealed to the Branch Executive Board by “any aggrieved member.” The right to appeal is not limited to the original appellant. Previous rulings have held that the five-day time frames for aggrieved members to appeal to the next step of the process will not begin to run until the member receives, or reasonably could have received, notice of the decision in question. Thus, we encourage all Branches to inform the members of the results of election appeals in a timely manner. I would recommend that, at the very least, you make a copy of the Committee’s decision available to any member who wishes to review it.

**BILLIE JO ROMANO, MERIDEN, CT, BRANCH  
20**

**February 8, 2018 (6952)**

Your letter to National Business Agent John Casciano, dated January 18, 2018, has been referred to me for reply, insofar as the letter raises an issue involving interpretation of the NALC Constitution. Specifically, you are seeking guidance to resolve a dispute over Branch 20 President Daniels’ decision to defer the Branch’s consideration and vote on a proposed amendment to its By-laws that you have submitted.

At the outset, 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. I can offer the following general guidance.

Proposed amendments to Branch By-laws are governed by Article 15 of the NALC Constitution. 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.

In any event, the proper procedure for challenging Brother Daniels' decision to defer Branch consideration of your proposed amendment 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.

**KEVIN KEENER, ROANOKE, VA, BRANCH 1605**

**February 14, 2018 (6955)**

This is in reply to your letter, received by my office on February 8, 2018, asking whether you have been disqualified from continuing to serve as President of Branch 1605. According to your letter, you applied for a higher level position in the Postal Service, but you have never been offered and have never served in a supervisory position.

At the outset, your letter does not provide sufficient information for me to determine whether you must resign. However, I can provide the following guidance which should help you resolve the issue.

The NALC Constitution does disqualify members from serving as branch officers if they applied for a supervisory position within the past two years, regardless of whether they have actually served as supervisors. The relevant language is Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches which specifically provides that "All regular members shall be eligible to hold any office or position in the Branch, except that a mem-

ber 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.

The language covering applications was added to this provision by an amendment adopted at the 1988 National Convention in Portland, OR. The clear intent of the delegates was to disqualify applicants in addition to members who actually had worked as supervisors. The language has consistently been applied to applicants since the 1988 Convention.

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 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. Your letter does not contain sufficient information to determine whether the higher level position for which you applied carried such authority. If it did not, then you would not be disqualified from continuing to serve as President of the Branch.

**D. ROBERT JOHNSON, ALPHARETTA, GA, GSAFC**

**February 15, 2018 (6959)**

This is in reply to your letter, dated February 9, 2018, requesting dispensation allowing the Georgia State Association to register its Delegates-at-Large to the 2018 National Convention after the May 17 registration deadline established by the Executive Council under Article 5, Section 5(d) of the NALC Constitution. According to your letter, the Delegates-at-Large will not be elected until June 8 or 9, 2018 when the Georgia State Convention takes place.

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. The Georgia State Association must inform Secretary-Treasurer Rhine's office of the names of the Delegates-at-Large as expeditiously as possible following their election.

**VERONICA FLORES OSBORN AND JEFF WAGNER, WEST PALM BEACH, FL, BRANCH 1690**

**February 15, 2018 (6956 & 6957)**

This is in reply to your two recent letters, dated February 4 and 5, 2018, concerning alleged misconduct in connection with the investigation and vote on charges against Branch 1690 President Mascolo and two other members. In particular, you challenge the appointment of one investigating committee to handle charges brought by two

members and the apparent prevention of a vote on a motion to suspend the charged parties as a lesser penalty after a motion to expel failed to receive the required 2/3 majority.

At the outset, while I appreciate your concerns, I must advise that there simply is no basis for any intervention by the National Union in this matter at this stage, particularly since I only have your side of the story before me. The dispute described in your letter must be addressed initially at the branch level. The final disposition of this matter by the Branch would then be subject to appeal. As provided by Article 11, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), any decision of the Branch President may be appealed to the Branch. The Branch's decision may be appealed to the National Committee on Appeals in accordance with the procedures set forth in Article 11, Section 2 of the CGSFB.

**MEMBERS, FRANKLIN PARK, IL, BRANCH 2183**

**February 15, 2018 (6950)**

This is in reply to the petition that you faxed to NALC Headquarters on January 19, 2018, concerning the suspension of Branch 2183 President Matthews and Vice President Mejia.

At the outset, I fully appreciate your views and concerns. Nonetheless, it would be inappropriate for me to comment on the suspensions, which are subject to appeal. I can offer the following comments.

First, I understand that some members were opposed to NBA Caref's attendance at the Branch meeting. However, the National Union is the exclusive bargaining representative of all letter carriers nationwide. Accordingly, it is expected that NBA's will generally have access to Branch meetings to carry out their responsibilities as representatives of the NALC.

Second, it does appear that the suspensions have been processed in accordance with the NALC Constitution. Under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) penalties are decided by the votes of the members in attendance at the Branch meeting at which the charges are considered. That is what happened here. The members voted to reject a proposal for a full expulsion from membership but in favor of the lesser penalty of a six month suspension. Under Article 11 of the CGSFB the Branch decision may be appealed to the National Committee on Appeals. The Committee is authorized to reverse the Branch's decision and, if it does so, it may restore Brothers Matthews and Mejia to office.

Third, even if the Committee denies the appeal, the suspension will end after six months and Brothers Matthews and Mejia will be restored to their officer positions at that time.

**ALONZO CORTEZ, FORT WORTH, TX, BRANCH 226**

**February 16, 2018 (6960)**

This is in reply to your letter, dated February 9, 2018. According to your letter, Branch 226 has

decided not to request dispensation to extend the nomination of delegates to allow it to fill its remaining slots. You now ask whether there is any alternative solution that would allow you to be a paid delegate to the 2018 National Convention.

Unfortunately, it does not appear that there is any way you can serve as a delegate. As explained in my previous letter, 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.

As I also noted, you can attend the Convention as a guest. Although you would not be seated with the Branch 226 delegation, and would not be authorized to cast votes, you would be able to observe the entire proceedings. In addition, if there is sufficient space, letter carrier guests may attend training classes conducted before and after the Convention business sessions.

The Branch may vote to provide you with funding to attend the Convention in a non-delegate capacity, so long as doing so does not conflict with the Branch By-laws.

**STEVEN STARDEVANT, SAN TAN VALLEY, AZ, BRANCH 1902**

**February 23, 2018 (6965)**

Your letter, dated February 14, 2018, has been referred to me for reply insofar as you have raised an interpretive issue under the NALC Constitution. Specifically you ask whether a member may be nominated for more than one branch office in the same election.

The answer to your question is no. 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 at that time which of the two nominations he/she will accept. It would not be permissible for the member to be a candidate for both positions and decide after the election which he/she would accept if elected to both.

I trust that the foregoing addresses your concerns. In closing, thank you for your many years of service to Branch 1902.

**VADA PRESTON, REGION 13**

**February 23, 2018 (6968)**

This is in reply to your email, sent February 21, 2018, inquiring whether a retiree member would be disqualified from continuing to serve as a branch officer if he/she were to accept temporary employment with the Postal Service as a Postmaster Relief to count rural routes.

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 as a branch officer for two years following termination of supervisory status. However, counting rural routes is not necessarily supervisory work, even when the member is paid at a higher level. As previous 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 correspondence that you included with your email does not indicate that the PMRs would be authorized to discipline or supervise rural letter carriers.

It is the Branch's responsibility, in the first instance, to apply Article 5, Section 2 to the particular fact circumstances. If the job description or other relevant information do not indicate that the member in question would be given supervisory authority by management, then the member would not be disqualified from continuing to serve as a branch officer.

**STANLEY TAYLOR, NEW ORLEANS, LA, BRANCH 124**

**February 23, 2018 (6969)**

This is in reply to your telephone message to my office on February 21, 2018, in which you ask for clarification of the procedures and protocols to be followed by a committee that has been appointed to investigate charges against a member of Branch 124.

The role of the investigating committee is clearly set forth in Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). The committee's role is to "find the true facts and report to the Branch." The committee is required 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 has discretion with regard to the scheduling of hearings, so long as it safeguards the rights of the parties to present evidence and cross-examine witnesses. For example, the committee may require that the charging and charged parties present their evidence at a single hearing, but it is not required to do so. The committee may also interview witnesses in addition to the charging and charged parties. However, if the committee relies on statements of non-party witnesses, the parties must be afforded an opportunity to cross-examine those individuals.

You also ask whether the charged party may cross-examine the persons who have brought the charges. Generally speaking, the answer to this question is yes. The right of cross-examination provided by Article 10, Section 3 allows the charging and charged parties to cross-examine each other. The parties' right of cross-examination is not limited to non-party witnesses.

**PENNY CASH, ATHENS, GA, BRANCH 588**

**February 27, 2018 (6972)**

Your email to Assistant Secretary-Treasurer Judy Willoughby, sent February 23, 2018, has been referred to me for reply insofar as your questions involve interpretation of the NALC Constitution.

At the outset, please understand that it would be entirely inappropriate for me to comment on the specific allegations in your email, particularly since charges are pending and I only have your side of the story before me. I can provide the following general guidance.

The role of the investigating committee is clearly set forth in Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). The committee's role is to "find the true facts and report to the Branch." The committee is required 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 has discretion with regard to the scheduling of hearings, so long as it safeguards the rights of the parties to present evidence and cross-examine witnesses. The committee may also interview witnesses in addition to the charging and charged parties. However, if the committee relies on statements of non-party witnesses, the parties must be afforded an opportunity to cross-examine those individuals.

You also ask whether the charging and charged parties may cross-examine each other. Generally speaking, the answer to this question is yes. The parties' right of cross-examination is not limited to non-party witnesses.

I cannot comment on whether the investigating committee proceeded improperly by conducting a hearing without one of its members, as asserted in your email. Ultimately, what matters is that the facts are fully investigated and that a fair and accurate presentation is made to the Branch before it votes on the merits of the charges. Challenges to the procedures followed by the investigating committee can be made in an appeal to the Committee on Appeals from the Branch's decision.

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 the pending charges or any subsequent appeal.

**PENNY CASH, ATHENS, GA, BRANCH 588**

**March 6, 2018 (6980)**

This is in reply to your email, sent March 5, 2018, requesting interpretations of two provisions of the NALC Constitution.

First you ask for clarification of the language of Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), in particular the provision requiring that copies of the charges be served on the charged parties "under seal or letterhead of the Branch." This requirement of service of copies under seal or letterhead is an obligation imposed

on the Branch after the charges have been submitted by the Branch by the charging member.

The “seal” is the official Branch insignia which is to be affixed to, or impressed on, the copy of the charges to be served on the charged party. Most Branches do not have an official seal, or a device to affix or impress a seal on a document. Accordingly, Article 10, Section 2 permits the branch to serve the charges with a covering letter on Branch “letterhead” confirming that the charges have been filed with the branch and are being served by the Branch.

Your second question is whether Article 6, Section 5 empowers the Branch President to require the Branch Treasurer to turn over his/her “books, papers and money” at any time upon request. You are correct in pointing out that Article 6, Section 5 only refers to turning over books, records and money to the Treasurer’s successor at the end of his/her term. However, this is beside the point. Article 6, Section 1 CGSFB provides that the Branch President shall “have general supervisory powers over the Branch,” which includes the authority to “see that officers perform their duties [and] enforce the Constitution, By-Laws, Rules and Regulations of the Branch.” As previous rulings have consistently recognized, this provision confers upon the Branch President supervisory authority over subordinate officers. Accordingly, the President has the authority to issue instructions to any subordinate officer with respect to the performance of his/her duties. In appropriate circumstances, this authority could involve requiring the Treasurer to make his/her books and records available to the President.

As provided by Article 11, Section 1, any decision of the Branch President may be appealed to the Branch. The Branch’s decision may be appealed to the National Committee on Appeals in accordance with the procedures set forth in Article 11, Section 2 of the CGSFB.

**SCOTT HANEY, PEORIA, IL, BRANCH 31  
March 6, 2018 (6981)**

This is in reply to your letter, dated February 28, 2018, requesting dispensation permitting Branch 31 to compensate convention delegates who may not be able to satisfy the minimum meeting attendance requirement provided by the Branch By-laws because of the postponement of the Branch’s January 11 meeting to January 18 due to severe weather. According to your letter, at least two delegates were unable to attend the January 18 meeting, and the Branch has subsequently voted unanimously to treat all members as if they attended the January meeting for purposes of satisfying the By-law requirement.

It is not clear to me that there is a conflict with the By-laws in these circumstances. Nonetheless, to avoid any confusion, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. The motion adopted at the February meeting, as described in your letter, may be implemented, notwithstanding any potentially conflicting provisions of the Branch 31 By-laws.

**CARLOS RODRIGUEZ, BROWNSVILLE, TX,  
BRANCH 1456**

**March 7, 2018 (6987)**

This is in reply to your email, sent March 7, 2018, advising that Branch 1456 Treasurer Miguel Trejo has transferred to the clerk craft. You ask whether he remains eligible to be a member of the NALC and the NALC Health Benefits Plan, and whether he can continue to serve as a Branch officer.

The answer to all your questions is yes. A member’s transfer to another craft does not, by itself, render him/her ineligible for NALC membership or to hold Branch office. Generally speaking, non-letter carrier members, such as clerks and rural letter carriers, have full rights as members of the NALC. Article 2, Section 1(a) of the NALC National Constitution defines “regular branch members” as including “non-supervisory employees in the Postal Service.” The Constitution does not limit regular membership to employees in the letter carrier craft.

Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches 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 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). As previous rulings have consistently recognized, restricting eligibility to active letter carrier members would be inconsistent with these provisions.

In sum, Brother Trejo may continue to serve as Branch Treasurer. I trust that the foregoing addresses your concerns.

**PATTY BADINI, WEST PALM BEACH, FL,  
BRANCH 1690**

**March 14, 2018 (6993)**

This is in reply to your letter, dated March 9, 2018, in which you ask various questions regarding a request by a member of Branch 1690 for your handwritten notes which are to be used to prepare the minutes of the Branch’s February meeting.

At the outset, the dispute described in your letter is an internal Branch matter. It would be inappropriate for me to comment on the specifics of this matter, particularly since I only have your side of the story before me. However, I can offer the following guidance with respect to the constitutional principles regarding the minutes of Branch meetings.

In general, 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.”

Previous presidential rulings have held that the minutes of Branch meetings should be reasonably accessible for review by all members on an equal basis. However, there are no constitutional provisions or prior rulings which require that the Branch must generally provide copies of minutes to members upon request. Accordingly, the Branch may adopt any reasonable policy to address this issue as it sees fit. A denial of a request to examine minutes may be appealed under Article 11 of the CGSFB. Accordingly, in the situation described in your letter, your denial of access to either your notes or an advance copy of the minutes may be appealed to the Branch President under Article 11, Section 1. His decision may, in turn, be appealed to the Branch.

**GEORGE TORRES, VISALIA, CA, BRANCH  
866**

**March 28, 2018 (7002)**

This is in reply to your email, sent March 14, 2018 requesting a ruling as to whether Sister Kristy Islas has been disqualified from continuing to serve as a steward and convention delegate in Branch 866. According to your letter Sister Islas submitted a letter to postal management expressing interest in becoming a 204b. Your letter indicates that she did not take any additional steps to become a supervisor and has never been actually appointed to any supervisory position.

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 as a branch officer or steward for two years following termination of supervisory status. 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 of interest may or may not constitute an application for a supervisory position, depending on the circumstances. Local practices may be relevant.

Your letter does not provide sufficient information as to the nature of the application process in your installation to permit me to make a definitive ruling with respect to Sister Islas. For example, your letter does not indicate whether the Postal Service treated her letter as an application for a supervisory position, or whether additional steps would have been required to complete the application.

In any event, it is for the Branch to determine, in the first instance, whether or not a member has in fact applied for a supervisory position. The Branch should investigate this matter and, if necessary, discuss the situation with management to clarify whether the letter of interest was considered an application for a supervisory position. If the Branch concludes that in the present case

Sister Islas's letter was not tantamount to an application for a supervisory position, then she will remain eligible to be a steward and to attend the National Convention as a delegate.

**WILLIAM BARNES, CLEVELAND, OH, BRANCH 40**

**March 28, 2018 (7003)**

This is in reply to your letter, dated March 15, 2018, concerning a pending appeal of the recent election of officers in Branch 40. Specifically, you ask whether an appeal from a decision of the Election Committee to the Branch Executive Board should be decided by the outgoing or incoming Board.

Please be advised that under Section 21.2 of the NALC Regulations Governing Branch Election Procedures, when an appeal is made from a decision of the Election Committee to the Executive Board of the Branch, the appeal is to be decided by whichever members of the Board are in office at that time. Accordingly, if the new Board has not yet been installed when the appeal is made, then the outgoing Board would retain the authority to issue a decision.

I would add one caveat. Section 21.2 provides that the Executive Board must respond to an appeal within thirty days. If the installation of officers takes place within this thirty day period, and the outgoing Executive Board has not yet ruled on the appeal, then the new Board would have the authority to issue the decision.

**HOLLY CURATOLO, VANCOUVER, WA, BRANCH 1104**

**March 28, 2018 (7011)**

This is in reply to your letter, dated March 21, 2018, requesting dispensation permitting Branch 1104 to re-open nominations and election of delegates to the 2018 National Convention. According to your letter, the Branch failed to nominate and elect alternate delegates at its regular nominations meeting at which delegates were elected by acclamation.

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 Branch must provide appropriate and timely notice to the members as expeditiously as possible.

Please understand that this dispensation applies only to the nomination and election of alternate delegates to the 2018 National Convention. 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.

**DEBORAH MCLEMORE, TELlico PLAINS, TN, BRANCH 1995**

**April 4, 2018 (7014)**

This is in reply to your recent letter to NALC Assistant Secretary-Treasurer Judy Willoughby, in which you ask for clarification as to when a new member's membership status actually begins. You also ask whether a new member may be ap-

pointed by the Branch President to fill an officer vacancy in Branch 1995 before the NALC receives the Form 1187 or the member first pays dues.

With regard to your first question, Article 2, Section 1 of the NALC Constitution makes membership in the NALC available to all non-supervisory employees in the Postal Service upon execution of a Form 1187 or, when the member retires, a Form 1189. Presidential rulings have long recognized that 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 attains membership status 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 membership status be deferred until the Form is processed by the NALC Membership Department or until dues deductions begin.

Consistent with the foregoing, prior rulings have also established that if a qualified applicant has signed a Form 1187, then that member would become eligible to serve in a Branch office or position. Inasmuch as the individual's dues obligation begins when he/she executes the Form 1187, so do the rights and responsibilities of Branch membership. Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches 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 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). There is no language restricting eligibility to members who are currently subject to dues check off.

**SUSAN MILLER, MICKLETON, NJ, BRANCH 534**

**April 4, 2018 (7025)**

This is in reply to your email, sent March 25, 2018, inquiring whether Branch 106 should conduct a special election of officers, who will also serve as convention delegates under the Branch By-laws. According to your letter, the incumbent President and Vice President have resigned, and the Branch By-laws do not provide an order of succession.

It does appear that a special election is necessary. 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 Branch 534 dispensation to conduct a special election for President and Vice President for the remainder of the current terms of office. Dispensation is also granted to register the new officers as delegates to the Convention out of time.

I urge the Branch to conduct the special election as expeditiously as possible. The Branch should contact the office of your National Busi-

ness Agent Dave Napadano for any assistance that may be required.

**STEVEN BROWN, ROCKFORD, IL, BRANCH 245**

**April 5, 2018 (7026)**

This is in reply to your recent letter, which apparently was sent by fax on April 1, 2018. Your letter asks for guidance on three issues which have arisen in Branch 245.

At the outset, please be advised that it would be inappropriate for me to address the specific situation in the Branch based on the limited information contained in your letter. I can provide the following general advice.

Regarding your first question, there are no provisions in the Constitution specifying procedures for the resignation of Branch officers or stewards. Similarly, there are no constitutional provisions or other union regulations which define precisely when a resignation from Branch office becomes official. Past presidential rulings have recognized that once a Branch officer's resignation from office has become effective, he/she may not reclaim that office. At the same time, nothing in the Constitution prohibits an officer from withdrawing a resignation prior to its effective date.

In some cases there is a factual dispute as to whether the officer did submit an effective resignation, or whether he/she properly withdrew the resignation before it became effective. The rulings have consistently held that such disputes must be resolved, in the first instance, at the Branch level. The issue may be voted on by the members. The Branch's decision would then be subject to appeal to the National Committee of Appeals in accordance with the procedures set forth in Article 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

As to your second question, the Constitution does not specifically address whether a Branch President may take a leave of absence. The Constitution clearly contemplates that the President may be absent on occasion. Article 6, Section 2 of the CGSFB states that "[t]he Vice President shall preside in the absence of the President." Accordingly, so long as the President has not resigned, the Vice President may act as Branch President only during the elected President's absence.

However, there may be extreme cases where the President fails to discharge the duties of his/her office for an extended period of time, so that he/she effectively abandons the Presidency of the Branch. Thus, Article 6, Section 2 also provides that "in case of . . . refusal or neglect of the President to discharge the duties of his/her office, the Vice President shall then perform all duties incumbent upon the President for the remainder of the term of office." Again, any disputes over whether such an abandonment has occurred must be resolved at the Branch level, in the first instance. This question could also be raised in the form of a charge against the President under Article 10 of the CGSFB.

**STEFFEN JONES, WASHINGTON, DC,  
BRANCH 142**

**April 13, 2018 (7034)**

This is in reply to your letter, dated April 5, 2018, requesting that I rule on the propriety of a vote taken at the April 4, 2018 meeting of Branch 142. According to your letter, the Branch improperly voted on a main motion without first voting on your motion to table. You now assert that the Branch's action violated its By-laws.

While I appreciate your concerns, it would be entirely inappropriate for me to comment on the issue posed in your letter. 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.

The issues you raise could have been the subject of an appeal under Article 11 of the Constitution for the Government of Subordinate and Federal Branches. This letter should not be read to express any position as to the merits of such an appeal.

**VINCENT CORSI, OLYMPIA, WA, BRANCH  
351**

**April 16, 2018 (7039)**

This is in reply to your letter, dated April 9, 2018, requesting dispensation permitting Branch 351 to re-open nominations and election of delegates to the 2018 National and Washington State Conventions. According to your letter, the Branch failed to nominate and elect alternate delegates during its original nomination and election of delegates. Your request would not impact previously elected 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. The Branch must provide appropriate and timely notice to the members as expeditiously as possible.

Please understand that this dispensation applies only to the nomination and election of alternate delegates to the 2018 National and Washington State Conventions. 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.

**ESTHER MARTINEZ, HAYWARD, CA,  
BRANCH 1707**

**April 19, 2018 (7043)**

This is in reply to your recent letter, received by my office on April 16, 2018, inquiring whether Joshua Javeheri, a member of Branch 1707, has been disqualified from continuing to serve as a shop steward. According to your letter, Brother Javeheri has applied for a Safety Specialist, EAS-17 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. 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. Your letter does not contain sufficient information to determine whether the safety position for which Brother Javeheri applied carries such authority.

It will be your responsibility, as Branch President, to determine whether the position in question carries supervisory authority. If it does not, then Brother Javeheri would not be disqualified from continuing to serve as a steward.

**DONALD BURNS, MOORE, SC, BRANCH 628  
April 20, 2018 (7038)**

This is in reply to your letter to me, dated April 5, 2018, as well as your recent letter to NALC Vice President Lew Drass. Both letters concern the rerun election to be conducted by Branch 628 in accordance with a ruling by the NALC Committee on Appeals.

At the outset, I am enclosing a copy of my April 2 letter to Sister Artencia Jackson-Williams. In that letter, I made clear that the Branch should conduct the election as expeditiously as possible. The election should not be delayed until the Branch has completed whatever By-law amendments may be necessary to bring the By-laws into conformity with the NALC Regulations Governing Branch Election Procedures (RGBEP). A copy of that letter was provided to your National Business Agent Kenny Gibbs and to Branch President Angel White-Thompson.

My letter also directed Brother Gibbs, to designate a representative from his office to assist the Branch in conducting the election and amending its By-laws. Specific questions regarding the conduct of the election should be directed to Brother Gibbs.

I can provide the following guidance. Generally speaking, the results of a challenged election are presumed to be valid pending all appeals and the conduct of a rerun election. Accordingly, the installation of the candidate who won that election would have been proper. The current President, therefore, retains the authority to appoint the Election Committee for the rerun election.

Elections must be conducted in accordance with the RGBEP. Section 11.7 of the RGBEP does recognize that Branches may provide in their By-laws for elections to be conducted at stations, followed by voting at branch meetings by members who did not vote at stations. However, any voting at stations must comply with the requirements provided by Section 13. For example, Section 13.4 requires that a member of the Election Committee be present at each polling place and supervise all election procedures.

Finally, I appreciate that your letter also raises

several other issues pertaining to Branch governance and finances. If necessary, I will consider authorizing additional assistance to the Branch in dealing with these matters after the election.

**JOHN FERREIRA, RICHMOND, CA, BRANCH  
1111**

**May 1, 2018 (7049)**

Your email to NALC Secretary-Treasurer Nicole Rhine, sent April 18, 2018, has been referred to me for reply, insofar as your email raises issues involving interpretation of the NALC Constitution. Specifically, you ask for a definition of the phrase "no longer a member in good standing of the National Association of Letter Carriers," and guidance as to the consequences that may follow when a member is no longer in good standing.

Article 2, Section 2 of the 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 membership in the Branch 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. 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."

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.

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.

Prior to the time of forfeiture, the member retains full membership rights, including the right to attend and vote at meetings, vote in Branch elections, and 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.

Finally, your email makes reference to the duty of fair representation. Please be advised that the Branch is required by law to represent all letter carriers fully and fairly in connection with matters arising under the National Agreement and any local agreements. This includes members who owe back dues or other debts, as well as non-members.

The Branch is not legally required to represent anyone in connection with statutory matters such as EEO charges and OWCP claims. If it chooses to do so, the Branch may restrict representation in relation to such matters to members of the union. The Branch also has discretion to develop reasonable, non-discriminatory rules and policies for providing such representation, consistent with the principles summarized above.

**WILLIAM BARNES, CLEVELAND, OH, BRANCH 40**

**May 2, 2018 (7059)**

This is in reply to your email, sent April 30, 2018, requesting rulings concerning the procedure for presenting an election appeal to the Branch in accordance with Section 21.3 of the NALC Regulations Governing Branch Election Procedures (RGBEP).

At the outset, please note that 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 response to your specific questions, I can offer the following general guidance.

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.” However, this principle does not prohibit appellants from submitting additional documents supporting the original objections or responding to the decisions of the Election Committee and Executive Board.

You also ask whether all the documents and exhibits contained in the appeal must be read at the Branch meeting. Prior rulings have held that it is not necessary to read aloud all the material submitted by the appellant when that material is so voluminous that reading it in its entirety would consume so much time as to interfere with branch business. Rather, it would be sufficient to read pertinent excerpts and to provide a reasonable summary of the material so as to inform the Branch of the substance of the appeal. The Branch should have a copy of the entire package of appeal material available at the Branch office during reasonable hours for those who might wish to read it.

It is up to the Branch to decide whether to allow debate on the appeal. If it does permit debate, the Branch may decide on the appropriate procedures, which may include time limits.

Again, the overriding criterion is fairness to all concerned.

Finally, the NALC election regulations do not require the Branch to distribute copies of the appeal or the response to the members in attendance at any meeting. The Branch can decide to make such a distribution, but it is not required. I do recommend that any members who wish to read this material be given an opportunity to do so.

**RODERICK TERRELL, COLUMBUS, GA, BRANCH 546**

**May 3, 2018 (7058)**

This is in reply to your letter, dated May 3, 2018, concerning actions taken by Branch 546 President Cadien to secure a new location for Branch meetings. According to his letter to the members, which you have forwarded to me, the previous location is no longer available. Your letter generally objects to Brother Cadien’s decision to engage the new room without a vote of the Branch.

At the outset, I must advise that it would be inappropriate for me to comment on the specific decisions in dispute, particularly since I only have your side of the story before me. Under Article 11, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), decisions of the Branch President may be appealed to the Branch. The Branch’s decision may be appealed to the National Committee on Appeals. This procedure cannot be bypassed by appealing to the National President.

I can provide the following general guidance.

First, Article 3, Section 1 of the CGSFB requires that Branch meetings be held “at such time and place as may be designated in the Branch By-laws.” If the meeting location becomes unavailable, the Branch must amend its By-laws to state the new location. Pending completion of the amendment process, the Branch may submit to me a request for dispensation to change the location of a particular meeting. Such a request should be signed by the Branch President and should include a statement of the reason for the change.

Second, as a basic principle, all expenditures of Branch funds must be authorized by the membership. Article 12, Section 3 of the 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.” A Branch may authorize payments in advance through its By-laws or by enacting a budget or a specific resolution authorizing the expenditures. Accordingly, any previous authorization of funds to pay the rental price for the previous meeting location could very well cover the new location, if the price was equal to or less than the previous price.

Article 12, Section 3 also permits Branches to make provisions in their By-laws allowing officers to spend certain sums between branch meetings “in cases of emergencies.” There is no single,

national definition of “emergency.” Branches have discretion to define the concept of an emergency in their By-laws in any reasonable manner consistent with local conditions. However, in the absence of such specific By-law guidance, the President may exercise his/her “general supervisory powers over the Branch” under Article 6, Section 1 of the CGSFB, to decide if an emergency expenditure was appropriate under the By-laws.

Finally, the President’s unilateral authorization of an expenditure is subject to appeal. As noted above, Article 11, Section 1 provides for a direct appeal to the members at the next Branch meeting. At that meeting the Branch may vote to overturn the President’s decision.

**DEXTER BROWN, DECATUR, GA, BRANCH 73**

**May 9, 2018 (7051)**

This is in further reply to your recent letter concerning the Branch 73 budget. I understand that upon receipt of my initial letter, dated May 1, 2018, you contacted my office requesting guidance as to a second concern: a reference in the Branch 73 budget indicating that a retired officer received a uniform allowance.

As I indicated in my first letter, the National Union is in no position to clarify any ambiguities in the Branch budget document. The issue you have identified should be discussed at a Branch meeting.

It is also the Branch’s responsibility, in the first instance, to address any dispute over the application of the relevant provisions of the Branch By-laws regarding officer benefits to officers who are retired from the Postal Service. If necessary, any dispute over the interpretation of the By-laws may be resolved by a vote at a Branch meeting. The Branch’s decision may be appealed to the National Committee on Appeals, under Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

**TED LEE, PITTSBURGH, PA, BRANCH 84**

**May 9, 2018 (7063)**

This is in reply to your letter, dated May 1, 2018, requesting dispensation to register out of time a delegate from Branch 84 to the National Convention. Your letter indicates that the individual in question was inadvertently left off the Branch’s delegate 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 contact Secretary-Treasurer Rhine’s office to arrange for the registration of this delegate as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2018 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**MARK MURPHY, ERIE, PA, BRANCH 284**

**May 15, 2018 (7069)**

This is in reply to your recent letter, received

by my office on May 10, 2018, seeking clarification of the eligibility of a member to vote in the recent election of stewards in an associate office in Branch 284. According to your letter, the member in question was actively working on a 204b detail.

At the outset, I cannot comment on whether the Branch should not count any particular ballots, particularly in light of the extremely limited information provided in your letter. I can, however, provide the following general guidance which you should apply to the particular facts presented.

The membership rights of members who accept supervisory positions - which includes the right to vote in an election of stewards - 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 may not exercise the right to vote in a Branch election of stewards while serving as a 204b. Thus, if it is clear that the member in question was actively serving as a 204b when ballots were submitted, then your disqualification of the ballot would have been correct.

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. Accordingly, if a 204b returns to a bargaining unit assignment, the member would at that point have the right to vote in the election.

If there is a question as to whether the member in question submitted the ballot while serving in a supervisory capacity, then it would be

your responsibility, as Branch President, to investigate the matter and make a decision based on the facts. Your decision would then be subject to appeal to the Branch under Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

**SCOTT VAN DERVEN, WAUWATOSA, WI, WSALC**

**May 22, 2018 (7078)**

This is in reply to your letter, dated January 11, 2018, requesting dispensation allowing the Wisconsin State Association to register its Delegates and Alternate Delegates-at-Large to the 2018 National Convention after the May 17 registration deadline established by the Executive Council under Article 5, Section 5(d) of the NALC Constitution. According to your letter, these delegates could not be elected until May 18 or 19, 2018 when the Wisconsin State Convention took place.

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. The Wisconsin State Association must inform Secretary-Treasurer Rhine's office of the names of the Delegates and Alternate Delegates-at-Large as expeditiously as possible.

**PAM STOVER, YORK, PA, BRANCH 509**

**May 24, 2018 (7086)**

This is in reply to your letter, dated May 18, 2018, requesting dispensation to register out of time as delegate from Branch 509 to the National Convention. Your letter indicates that due to your inexperience as a new Branch President, you inadvertently missed the May 17 registration deadline.

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 notifying Secretary-Treasurer Nicole Rhine.

Please understand that this dispensation applies only to the registration of delegates to the 2018 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**BRIAN GAVIN, GLENVIEW, IL, BRANCH 4007**

**May 24, 2018 (7087)**

This is in reply to your letter, dated May 23, 2018, requesting dispensation to register out of time the delegates from Branch 4007 to the National Convention. Your letter indicates that the Branch did not originally receive its delegate registration packet and did not obtain a replacement packet until May 16.

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 notifying Secretary-Treasurer Nicole Rhine.

Please understand that this dispensation applies only to the registration of delegates to the 2018 National Convention. In the future, the

Branch will be expected to comply with registration deadlines.

**LARRY BROWN & ANITA GUZIK, LOS ANGELES, CA BRANCH 24**

**May 24, 2018 (7088)**

This is in reply to your letter, dated May 23, 2018, requesting dispensation to register out of time Matthew Kozlo as a delegate from Branch 24 to the National Convention. Your letter indicates that another member, who is not a delegate, was erroneously registered instead of Brother Kozlo.

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 notifying Secretary-Treasurer Nicole Rhine.

Please understand that this dispensation applies only to the registration of delegates to the 2018 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**RICHARD WILSON, HARRISBURG, PA, BRANCH 500**

**May 25, 2018 (7089)**

This is in reply to your letter, dated May 22, 2018, requesting dispensation to register out of time Darrel Vance as a delegate from Branch 500 to the National Convention. Your letter indicates Brother Vance's name was inadvertently omitted from the Branch's list of registered delegates that was previously submitted to the Secretary-Treasurer'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. By copy of this letter, I am so notifying Secretary-Treasurer Nicole Rhine.

Please understand that this dispensation applies only to the registration of delegates to the 2018 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**LINDA BIDWELL, ROYAL OAK, MI, BRANCH 3126**

**May 25, 2018 (7091)**

This is in reply to your letter, dated May 18, 2018, requesting dispensation to register out of time Shawn Reardon as a delegate from Branch 3126 to the National Convention. Your letter indicates Brother Reardon's name was inadvertently omitted from the Branch's list of registered delegates that was previously submitted to the Secretary-Treasurer'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. By copy of this letter, I am so notifying Secretary-Treasurer Nicole Rhine.

Please understand that this dispensation applies only to the registration of delegates to the 2018 National Convention. In the future, the Branch will be expected to comply with registration deadlines.