

PRESIDENTIAL RULINGS

STEPHEN SHANK, SANTEE, CA, BRANCH 70

JUNE 1, 2018 (7076)

This is in reply to your letter, dated May 9, 2018, requesting clarification of the last paragraph of Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Specifically, your inquiry concerns the constitutional language recognizing the Branch President's authority to relieve a steward of representational duties or functions and to assign those duties or functions to another member.

At the outset, I cannot provide a general policy statement about when such presidential action would or would not be appropriate. Similarly, the particular representational duties or functions which should be reassigned, or the length of time of the reassignment, would depend on the particular circumstances presented. I can provide the following general guidance as to long-established constitutional principles.

First, it is primarily the responsibility of the Branch President to enforce the obligations of other officers and stewards. 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." 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 stewards in the performance of their duties.

The ability of the Branch President to remove shop stewards is determined by the manner of steward selection. If the Branch's stewards are appointed to office by the Branch President, the President may remove a steward for good and sufficient cause. If, however, the shop stewards are elected by the members of each respective station, then the President may remove for good cause only if the Branch has made a specific provision for such removal in its By-Laws. In the case of shop stewards elected by the entire Branch, the stewards must be treated as regular Branch

officers. Consequently, they cannot be removed without complying with the specific procedures set forth in Article 10 of the CGSFB.

Beyond the foregoing, a Branch President also has 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."

Whether the President of the Branch properly exercised his/her constitutional authority in removing or suspending a steward would depend on the particular facts presented and the exact nature of the President's actions. Any such decision by a Branch President is subject to appeal under Article 11 of the CGSFB. The Branch's decision may be appealed to the National Committee on Appeals under Article 11, Section 2 of the CGSFB.

I trust that the foregoing, at least in part, addresses your concerns.

MICHAEL WAHLQUIST, SALT LAKE CITY, UT, BRANCH 111

JUNE 1, 2018 (7080)

This is in reply to your letter, dated May 11, 2018, regarding the eligibility of members who are in arrears in their dues payments to vote in Branch elections.

At the outset, the hypothetical situation described in your letter does not provide quite enough facts to allow me to give you a yes or no answer. 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.

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 hypothetical does not indicate whether the Branch has adopted a procedure for collecting dues from members in non-pay status, or whether the member in question was advised of a due date for payment of his/her back dues.

Prior to the time of forfeiture, a member retains full membership rights. 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

I trust that the foregoing, at least in part, addresses your concerns.

CARLOS RODRIGUEZ, JR. & DANA CULPEPPER, EAGLE PASS, TX

TEXAS STATE ASSOCIATION OF LETTER CARRIERS

JUNE 5, 2018 (7081 & 7093)

This is in reply to your two recent letters, dated May 15 and 22, 2018. Both of your letters request that I resolve a variety of questions concerning parliamentary procedure and other significant matters which may arise at meetings of the Executive Board of the Texas State Association of Letter Carriers. These issues involve the application of specific provisions of the Texas State Association By-laws.

While I appreciate your concerns, it would be entirely inappropriate for me to comment on the issues posed in your letters. As National President, it is my responsibility to interpret the NALC Constitution. However, the issues described in your letters involve the interpretation and application of State By-law language.

Disputes over the interpretation of State Association By-laws must be resolved, in the first instance, at the state level. I can advise you that, as provided by Article 8, Section 1 of the NALC Constitution for the Government of State Associations (CGSA), the state President is authorized to preside over meetings of the Executive Board and to enforce the By-laws. Decisions by the President are subject to appeal to the State Association Convention, in accordance with the procedures provided by Article 13 of the CGSA.

I would suggest, therefore, that you use your best efforts to resolve the issues presented in light of whatever information is available as to the original intent of the State Association in pass-

ing the By-law provisions in question and any relevant past practice.

I trust that the foregoing addresses your concerns, at least in part.

CARLOS RODRIGUEZ, JR., EAGLE PASS, TX

TEXAS STATE ASSOCIATION OF LETTER CARRIERS

JUNE 5, 2018 (7094)

Your email to NALC Secretary-Treasurer Nicole Rhine, sent May 22, 2018, has been referred to me for reply. According to your email, you have discovered Texas State Association checks which were signed by the Vice President and Treasurer but did not have authorizing warrants attached to them. You now seek advice as to how to reassign check-signing authority to other officers.

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

First, it is the responsibility of the State Association Executive Board to authorize the payment of State Association funds and to specify the procedure for issuing checks. Article 8, Section 5 of the Constitution for the Government of State Associations (CGSA) states that the Executive Board "shall have charge of the property of [the] Association." The Executive Board has the power to "direct the investment of the funds" of the Association and to "examine all bills [and] approve the same if found correct." Moreover, Article 8, Section 4 of the CGSA makes clear that the "payment of . . . drafts and orders . . . shall be made in such manner as prescribed by the Executive Board."

Second, unlike other parts of the NALC Constitution, the CGSA does not contain any procedures for removing officers who improperly 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 and procedures mandated by the Board. Such Executive Board action could include assigning the Treasurer's duties to another elected officer.

Finally, any actions taken by you or the Board will be subject to appeal to the State Association Convention under Article 13 of the CGSA. 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.

I trust that the foregoing addresses your concerns.

JIM LOSTUMBO, LIVERPOOL, NY, BRANCH 134

JUNE 5, 2018 (7098)

This is in reply to your letter, dated May 24, 2018, requesting dispensation to register out of time four delegates from Branch 134 to the National Convention. Your letter indicates one of these delegates, Brother Gregory Rowe, was mistakenly listed as Larry Rowe on the Branch's list of registered delegates that was previously submitted to the Secretary-Treasurer's office. The other three delegates, Michelle Fenton, Nicholas Prietti, and Michael Bona, had previously indicated that they could not attend the Convention but are now available to do so.

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

ROBERT RAPISARDO, ST. LOUIS, MO, BRANCH 343

JUNE 5, 2018 (7099)

This is in reply to your letter, dated

May 25, 2018, requesting dispensation to register out of time Region 5 Administrative Assistant Charles Sexton as a delegate from Branch 343 to the National Convention. Your letter indicates that Brother Sexton's name was left off the list of delegates previously submitted to the Secretary-Treasurer's office because of confusion over whether he had met his dues obligations to the Branch. According to your letter, that issue has been resolved.

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.

**PAUL GAGNE, WALPOLE, MA,
BRANCH 1800**

JUNE 14, 2018 (7084)

This is in reply to your letter, dated May 17, 2018, concerning a proposal to merge Branch 4497, East Walpole, MA with your Branch 1800, Walpole, MA. According to your letter, Branch 4497 has not been functioning as an active Branch for several years, and the three full-time carriers in East Walpole have already agreed to become members of Branch 1800. You now request dispensation to allow both Branches to conduct a formal merger vote as expeditiously as possible, without regard to the thirty-day notice period otherwise required by Article 2, Section 3(a) of the NALC Constitution.

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 of both Branches are made aware of the time and place of the vote as expeditiously as possible.

Your letter also addresses issues that may arise if your office becomes subject to a DUO with Foxboro, MA. However, I

cannot offer any comments on the potential consequences for Branch governance of a DUO arrangement until such time as it is actually implemented.

I trust that the foregoing addresses your concerns

**ROBERT PEIFFER, MISHAWAKA,
IN, BRANCH 820**

JUNE 14, 2018 (7102)

Your letter to Assistant Secretary-Treasurer Judy Willoughby, dated May 23, 2018, has been referred to me for reply, insofar as your letter raises an issue of constitutional interpretation. Specifically, you have questioned the ruling of the NALC Committee of Laws invalidating a provision of the Branch 820 By-laws which would have permanently reserved a delegate slot for National and State Conventions to the Bremen Post Office. According to your letter, the guarantee of a delegate slot for the Bremen office is mandated by the merger agreement between Branch 820 and former Branch 3447 that went into effect on August 31, 2011.

While I appreciate your concerns, I must advise that the Committee's decision was correct. Article 5, Section 2 of the NALC Constitution expressly states that "All qualified regular members shall be eligible to be a delegate or alternate delegate to the National Association Convention or State Convention," except for those members who hold, accept, or apply for supervisory positions in the Postal Service. As previous rulings have consistently recognized, restricting eligibility for any delegate positions to letter carrier members in particular offices within the Branch would be inconsistent with this provision.

The rulings have recognized that merger agreements can contain provisions specifying that delegates from the non-surviving branch would be delegates from the surviving merged branch. However, such agreements are applicable only to the first National and State Conventions following the merger. Thereafter, delegate elections must conform to the requirements of the Constitution. Restrictions on nominations and election of delegates set forth in the merger agreement cannot be carried for-

ward indefinitely in the Branch By-laws.

I trust that the foregoing addresses your concerns.

**JANETTE DOLABSON, VAN NUYS,
CA, BRANCH 2462**

JUNE 15, 2018 (7092 & 7108)

This is in reply to your recent letter and email, received by my office on May 29 and June 12, 2018, inquiring whether Jeff Jackson is eligible for retiree membership in the NALC. According to your letter, Brother Jackson has been an active member, but he has been removed by the Postal Service. The removal was recently upheld by an arbitrator.

At the outset, I very much appreciate Brother Jackson's interest in retaining his union membership. Regretfully, I must advise that the language of the NALC Constitution renders him ineligible to do so.

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, membership status is terminated at the time of separation. Article 2, Section 1(a) also states that retiree members must be regular members "when they retired." Therefore, an active member who is removed from the Postal Service before he/she retires is not eligible for retiree membership in the NALC.

In cases such as this, I have sometimes been willing to exercise my authority under Article 9, Section 1 of the Constitution to grant dispensation permitting otherwise ineligible retirees to rejoin the union. Requests for such dispensation will be considered on the basis of the facts and circumstances of each particular case. Either you or Brother Jackson may submit a request for dispensation to me in writing.

I trust that the foregoing addresses your concerns.

RENE EBERHARDT, CASPER, WY

**WYOMING STATE ASSOCIATION
OF LETTER CARRIERS**

JUNE 15, 2018 (7109)

This is in reply to your letter, dated

June 3, 2018, requesting dispensation allowing the Wyoming State Association to register its two Delegates and one Alternate Delegate-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 June 2-3, 2018 when the Wyoming 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. As stated in your letter, the two Delegates are Rene Eberhardt and Kimberly Hernandez. The Alternate Delegate-at-Large is Doreen Granka. By copy of this letter, I am so informing Secretary-Treasurer Rhine's office to arrange for the registration of these delegates.

I trust that the foregoing addresses your concerns.

**ALFRED BREAUX & CHERYL BIL-
LEAUDEAU, LAKE CHARLES, LA,
BRANCH 914**

JUNE 15, 2018 (7110)

This is in reply to your letter, dated June 1, 2018, requesting dispensation to register out of time Dustin Shidla as a delegate from Branch 914 to the National Convention. Your letter indicates Brother Shidla's name was inadvertently omitted from the Branch's list of registered alternate delegates that was previously submitted to the Secretary-Treasurer's office, and that he is now needed to replace Susan Cretchain as a 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. By copy of this letter, I am so notifying Secretary-Treasurer Rhine's office.

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.

**MIKE SMITH, HIGHLAND HEIGHTS,
KY, BRANCH 374**

JUNE 15, 2018 (7113)

This is in reply to your letter, dated June 4, 2018, requesting dispensation to register out of time Steven C. Schwalbach as a delegate from Branch 374 to the National Convention. Your letter indicates Brother Schwalbach'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 Rhine's office.

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.

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

JUNE 15, 2018 (7114)

This is in reply to your letter, dated June 6, 2018, requesting dispensation to register out of time James Weeks and Colleen Foster as delegates from Branch 182 to the National Convention. Your letter indicates that their names were 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 Rhine's office.

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.

**TOM WALSH & DAVID PANIKU,
HILO, HI, BRANCH 2932**

JUNE 20, 2018 (7115)

This is in reply to your letter, dated

June 5, 2018, concerning the situation in Branch 2932. Specifically, you complain that following the special election of officers that took place in February, National Business Agent Bryant Almario has not yet permitted the newly elected officers and steward to resume their local responsibilities in the grievance process. It appears that he has concluded that additional training remains necessary.

As you are well aware, Brother Almario is acting at my direction. By letter dated November 9, 2017, I instructed him to arrange for the special election and to appoint an outside steward to handle any grievances in the Branch that might arise since the Branch was not then processing grievances in a timely manner. I have every confidence in Brother Almario's judgment in this matter.

Contrary to your suggestion, the trusteeship provisions of Article 18 of the NALC Constitution are not germane to this situation. Trusteeship involves control of a Branch's governance and finances. The issues you have raised pertain to administration of the collective bargaining agreement and grievance procedure.

The National Union is the exclusive collective bargaining representative of a nation-wide bargaining unit consisting of all employees in the city letter carrier craft. The parties to the National Agreement are the United States Postal Service and the National Union.

Article 9, Section 1(e) of the NALC Constitution specifically provides that the National President "shall have the authority and responsibility for carrying out the collective bargaining duties of the Union." This section further authorizes the President to "take all steps he/she deems necessary and proper to enforce the rights of the Union and its members under all collective bargaining agreements." In addition, Article 9, Section 1(a), authorizes the President "to assign National Business Agents and other representatives for the purpose of . . . policing collective bargaining agreements [and] investigating and settling grievances."

As noted above, Brother Almario's office is operating within the scope of

his authority as designated by me, as National President. His decisions, and those of his designees, are entirely consistent with the Constitution.

I do appreciate that the newly elected Branch officers are looking forward to take responsibility for local grievances as soon as possible. By copy of this letter, I am directing Brother Almario to expedite whatever remaining training may be necessary, to the extent possible.

I trust that the foregoing addresses your concerns.

**THELMA BROWN, SAN DIEGO, CA,
BRANCH 70**

JUNE 20, 2018 (7116)

This is in reply to your letter, dated June 8, 2018, requesting that I rule on the propriety of certain motions that were introduced and voted on at the meeting of Branch 70 held on June 7. Specifically, you ask whether 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.

**KYLE KONETZKE, HARTLAND, WI,
BRANCH 5942**

JUNE 20, 2018 (7121)

This is in reply to your letter, received by my office on June 14, 2018, requesting dispensation allowing you to be registered as a delegate from Branch 5942 to the National Convention, notwithstanding your failure to meet the May 17 registration deadline. Your letter indicates that you never received the registration packet that was mailed to

the Branch Secretary.

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 Rhine's office.

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.

**MANUEL MAIRENA, BURLINGAME,
CA, BRANCH 1280**

JUNE 20, 2018 (7123)

This is in reply to your letter, received by my office on June 1, 2018, requesting dispensation allowing you to be registered as a delegate from Branch 1280 to the National Convention, notwithstanding your failure to meet the May 17 registration deadline. Your letter indicates that you did not initially register because you planned to attend your niece's wedding in Nicaragua during the week of the Convention. However, because of the unfortunate situation now prevailing in Nicaragua, you have cancelled your trip and are now available 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. By copy of this letter, I am so notifying Secretary-Treasurer Rhine's office.

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.

**JOEL MALKUSH & AMANDA
GREER, ST. PAUL, MN, BRANCH 28**

JUNE 20, 2018 (7124)

This is in reply to your letter, received by my office on June 4, 2018, requesting dispensation to register out of time Allen J. Meier as a delegate from Branch 28 to the National Convention. Your

letter indicates that you inadvertently included the name of Charles M. Meier instead of Allen J. Meier on 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 Rhine's office that Allen J. Meier should be registered as a delegate from Branch 28.

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.

**MACK JULION & PETER SKRZYPC-
ZYNSKI, CHICAGO, IL, BRANCH 11**

JUNE 20, 2018 (7127)

This is in reply to your letter, dated June 12, 2018, requesting dispensation to register out of time Delores Taylor as a delegates from Branch 11 to the National Convention. Your letter indicates that her 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 Rhine's office.

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.

**LESLIE MENDOZA, MERCED, CA,
BRANCH 1340**

JUNE 20, 2018 (7128)

This is in reply to your letter, dated June 12, 2018, requesting dispensation to register late yourself and the Vice President of Branch 1340 as delegates to the 2018 National Convention. Your

letter indicates that the Branch Secretary 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. By copy of this letter, I am so notifying Secretary-Treasurer Rhine's office.

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.

HAROLD CUNNINGHAM, SPRINGFIELD, MO, BRANCH 203

JUNE 20, 2018 (7129)

This is in reply to your letter, dated June 16, 2018, requesting dispensation allowing Bryant Thomas Mertz to be registered out of time as a delegate from Branch 203 to the National Convention. Your letter indicates that he was not initially registered because of an error by the Branch concerning the local vacation calendar and bid weeks. Now that the error has been corrected, Brother Mertz is available 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. By copy of this letter, I am so notifying Secretary-Treasurer Rhine's office.

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.

**MELVIN MOORE & JEFFREY RAIN-
EY, KANSAS CITY, MO, BRANCH 30**

JUNE 20, 2018 (7130)

This is in reply to your letter, dated June 8, 2018, requesting dispensation to register out of time Robert Robbins as an alternate delegate from Branch

30 to the National Convention. Your letter indicates that the Branch inadvertently registered Gary Roberts instead of Brother Robbins as the alternate 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. By copy of this letter, I am so notifying Secretary-Treasurer Rhine's office.

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.

**KRISTIN WILLIAMS, VIRGINIA
BEACH, VA, BRANCH 6066**

JUNE 20, 2018 (7131)

This is in reply to your email, sent June 18, 2018, requesting that I resolve a dispute over whether Branch 6066 may properly pay the expenses of three delegates. According to your email, these three delegates did not attend the minimum number of Branch meetings required by the By-laws to qualify for payment.

While I appreciate your concerns, I must advise that it would be inappropriate for me to intervene in this matter, particularly since I only have your side of the story before me. 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.

Generally speaking, Branches may not take actions which conflict with their By-laws. However, it would be inappropriate for me to rule on the specific question presented here, whether Article V,

Section 5 of the Branch 6066 By-laws was intended to prohibit the Branch from authorizing on a case-by-case basis compensation for members who did not meet the meeting attendance standard. Disputes over the meaning or application of by-law provisions must be addressed, in the first instance, at the Branch level. The Branch's determination may be appealed to the National Committee on Appeals under Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

I trust that the foregoing, at least in part, addresses your concerns.

**MICHAEL WAHLQUIST, SALT LAKE
CITY, UT, BRANCH 111**

JUNE 21, 2018 (7083)

This is in reply to your letter, dated May 11, 2018, inquiring whether Branch 111 should change its long standing order of business for Branch meetings, in order to ensure that it is consistent with the order of business provided by Article 15 of the NALC Constitution for the Government of Subordinate and Federal Branches. In particular, you advise that the Branch's practice has been to hear the reports of the Financial Secretary and Treasurer, which are agenda items 14 and 15 in Article 15, before Unfinished Business, which is item 10 in Article 15.

Please be advised that the information provided in your letter does not indicate that a change in existing Branch practices is required. Previous rulings have consistently held that Branches have discretion to alter the order of business for a branch meeting. The rulings have concluded that Article 15 does not prohibit such changes.

I trust that the foregoing addresses your concerns.

**PENNY CASH, COMMERCE, GA,
BRANCH 588**

JUNE 21, 2018 (7117)

This is in reply to your e-mail, sent June 12, 2018, concerning your continuing dispute with Branch 588 President Patrick Daniel. Your email asks whether Brother Daniel has the authority to suspend you from your position of Branch Treasurer.

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 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. 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.

I trust that the foregoing, at least in part, addresses your concerns.

**TERESA BOYD, TALLAHASSEE, FL,
BRANCH 1172**

JUNE 21, 2018 (7122)

This is in reply to your letters, dated

May 24 and June 13, 2018, requesting dispensation to register out of time six delegates from Branch 1172 to the National Convention. Your letters indicate that these individuals were elected late because of governance issues in 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. Please contact Secretary-Treasurer Rhine’s office as expeditiously as possible to make the necessary arrangements for registration of the delegates.

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 WHITE, BENTON HARBOR,
MI, BRANCH 560**

JUNE 28, 2019 (7137)

This is in reply to your recent letter, dated June 17, 2018, requesting clarification of the process for filling vacancies in Branch offices. According to your letter, you have succeeded to the presidency of Branch 560 following the resignation of former President Parker.

Your understanding of the process of filling vacancies, as described in your letter, is essentially correct. 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 you properly exercised your authority to appoint a new Vice President.

I trust that the foregoing addresses your concerns.

**GENE WOODRUM, COLUMBIA, SC,
BRANCH 233**

JUNE 28, 2018 (7139)

This is in reply to your letter, received by my office on June 22, 2018, requesting dispensation to register out of time Cherriean Moore as a delegates from Branch 233 to the National Convention. Your letter indicates that Sister Moore was erroneously 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 Rhine’s office.

Please be advised that the Secretary-Treasurer’s office can no longer complete the registration process at NALC Headquarters. Sister Moore’s registration credentials will have to be printed at the registration desk at the Convention.

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.

MACK JULION & PETER SKRZYPCZYNSKI, CHICAGO, IL, BRANCH 11

JUNE 28, 2018 (7141 & 7145)

This is in reply to your letters, dated June 18 and 22, 2018, requesting dispensation to register out of time Henry Goode, Yolanda Taylor, and Denise Michael as delegates from Branch 11 to the National Convention. Your letter indicates that these members were erroneously 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 Rhine’s office.

Please be advised that the Secretary-

Treasurer's office can no longer complete the registration process at NALC Headquarters. The delegate credentials for Brother Goode, Sister Taylor, and Sister Michael will have to be printed at the registration desk at the Convention.

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.

**TODD HORNYAK & TREVOR PAYNE,
COLUMBUS, OH, BRANCH 78**

JULY 3, 2018 (7150)

This is in reply to your letter, dated June 29, 2018, requesting dispensation to register out of time Debbie Guthrie and Jeremy Hirschfeld as delegates from Branch 78 to the National Convention. Your letter indicates that these members were initially not expected to attend the Convention but are now needed to replace two other delegates who have declined to attend.

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 Rhine's office.

Please be advised that the Secretary-Treasurer's office can no longer complete the registration process at NALC Headquarters. The delegate credentials for Sister Guthrie, and Brother Hirschfeld will have to be printed at the registration desk at the Convention.

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.

**AL FRIEDMAN, TARPON SPRINGS,
FL, BRANCH 2008**

JULY 3, 2018 (7151)

This is in reply to your letter, received July 2, 2018, and fax, received July 3, 2018, requesting dispensation to register out of time Dave Durocher and Joe Spencer as delegates from Branch 2008 to the National Convention. Your letter and fax indicate that Brothers Durocher

and Spencer were erroneously 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 Rhine's office.

Please be advised that the Secretary-Treasurer's office can no longer complete the registration process at NALC Headquarters. The delegate credentials for Brothers Durocher and Spencer will have to be printed at the registration desk at the Convention.

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.

JOHN CASCIANO, REGION 14

JULY 6, 2018 (7074)

This is to follow up on our recent discussions concerning the situation in the Rhode Island State Association of Letter Carriers. I have received a letter from Brother Jim Harrington, dated May 11, 2018, advising that he has resigned as state Treasurer. Accordingly, the positions of President, Vice President, Secretary, and Treasurer of the Rhode Island State Association are now all vacant.

As you know, 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. The new President could then fill any remaining offices by appointment. However, since the Vice President has also resigned, the constitutional succession cannot be implemented. Moreover, I have been advised that the Rhode Island State Association By-laws do not provide for a succession to the office of Vice President.

The local parties' efforts to resolve this matter have not resulted in a consensus on a method of filling the vacant positions. 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 by appointment.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby authorize you or your designee to organize a special election for President of the Rhode Island State Association of Letter Carriers. Nominations and the election should take place at a special meeting of the delegates which should be arranged by your office. You have discretion to decide the time and place of the meeting. Please reach out to the Branches in Rhode Island and provide them with sufficient notice to send their delegates to the special meeting.

Please note that I am sending a copy of this letter to the remaining members of the State Executive Board and to the Presidents of the Rhode Island Branches. Thank you for agreeing to take on this responsibility.

**AL FRIEDMAN TARPON SPRINGS,
FL, BRANCH 2008**

JULY 12, 2018 (7158)

This is in reply to your fax, received July 9, 2018, requesting dispensation to register out of time Vic Skibicki as a delegate from Branch 2008 to the National Convention. Your fax indicates that Brother Skibicki was erroneously 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 Rhine's office.

Please be advised that the Secretary-Treasurer's office can no longer complete the registration process at NALC Headquarters. The delegate credentials for Brother Skibicki will have to be printed at the registration desk at the Convention.

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.

**ANIELLO MALERBA III, DERBY, CT,
BRANCH 20**

AUGUST 21, 2018 (7186)

This is in reply to your letter, received by my office on July 13, 2018, requesting information pertaining to an individual office leaving its branch.

While I appreciate the concerns described in your letter, I must advise that “breaking away” is not possible. As presidential rulings have long recognized, there are no provisions in the NALC Constitution which authorize individual offices to leave their assigned Branch.

As National President, I have at times authorized the reassignment of small post offices to Branches which are closer in location in order to foster greater participation by members and more effective representation. However, your letter does not set forth any facts suggesting that your office would be an appropriate candidate for reassignment.

I trust that the foregoing addresses your inquiry. This letter should not be read to express any view as to any ongoing disputes in Branch 20.

**EARL DORMAN, OXFORD, PA,
BRANCH 444**

AUGUST 21, 2018 (7189)

Your letter to Assistant Secretary-Treasurer Judy Willoughby, received by her office on August 1, 2018, has been referred to me for reply. According to your letter, Branch 444 rotates the location of its meetings in intervals of three months as among north, central, and southern New Jersey. However, some of your members have apparently suggested that this practice is inconsistent with the NALC Constitution.

Article 3, Section 1 of the Constitution for the Government of Subordinate and Federal Branches does require that Branch meetings be held at “such time and place as may be designated in the Branch by-laws.” This language, however, does not restrict Branches to having a single meeting location. The practice of rotating meetings among three locations does not violate the Constitution.

Nonetheless, to ensure compliance with Article 3, Section 1, the Branch

By-laws should contain language which describes the Branch’s practice and, if possible, identifies the three locations at which meetings take place.

I trust that the foregoing addresses your concerns.

NICHOLAS URCIUOLI, ANNANDALE, NJ, BRANCH 768

AUGUST 21, 2018 (7197)

This is in reply to your letter, received by my office on August 10, 2018. Your letter seeks guidance as to whether Branch 768 may arrange to have its monthly meetings in different locations. According to your letter, the Branch has been meeting in the same location for 30 years. However, during that period it has grown in size and now encompasses four cities.

In response to your specific, numbered questions, please be advised of the following. First, Article 3, Section 1 of the Constitution for the Government of Subordinate and Federal Branches requires that Branch meetings be held at “such time and place as may be designated in the Branch by-laws.” This language does not restrict Branches to having a single meeting location. The Branch may adopt a practice of rotating meetings among different locations. However, to ensure compliance with Article 3, Section 1, the Branch By-laws should contain language which describes the Branch’s practice and, if possible, identifies the locations at which meetings are to take place.

Second, the Branch will have to amend its By-laws before it can change the location of its meetings. Absent an amendment, the officers will not have the authority to change the location on their own. Nor can the members simply vote to do so, as suggested in your letter.

Third, the procedure for amending Branch By-laws is governed by Article 15 of the NALC Constitution. Article 15 provides that Branch By-laws “may be amended at any regular meeting of the branch, provided the amendment has been submitted in writing at the last previous regular branch meeting, and suitable notification to members shall be made at least ten (10) days before

the regular meeting at which the vote is to be taken.” Previous rulings have established that “suitable notification” within the meaning of Article 15 is any notice which, under the facts and circumstances, is reasonably designed to inform all members of the substance of the proposed amendment and the time and place of the vote.

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

I trust that the foregoing addresses your concerns.

**STEVEN AMRHEIN, INDIANAPOLIS,
IN, BRANCH 39**

AUGUST 21, 2018 (7198)

Your email to Secretary-Treasurer Nicole Rhine, sent August 13, 2018, has been referred to me for reply. Your email concerns a member on permanent limited duty who is considering bidding on an EAS position in injury compensation. You now ask whether her membership status would be affected if she were to obtain the position.

At the outset, nothing in your email suggests that the sister in question would no longer be eligible to retain membership in the NALC. Under Article 2, Section 1(a) of the NALC Constitution, regular membership is available to all “non-supervisory employees in the Postal Service.”

Article 2, Section 1(c) also permits members who are promoted to “supervisory status” to retain membership but “only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan.” A member occupying a supervisory position may not exercise membership rights or otherwise participate in official Branch activities (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). This restriction would prohibit the member from voting in branch elections or being a convention delegate.

Your email does not contain sufficient facts for me to offer an opinion as to whether the position in question would be considered “supervisory” for purposes of Article 2. If, as you suggest, the position is non-supervisory, then this member would retain full membership rights and would not be subject to the limitations on membership rights provided by Article 2, Section 1(c).

Your email also inquires about representation. Generally speaking, NALC can only represent employees in the city letter craft concerning their terms and conditions of employment. Non-letter carrier members are represented by whichever organization has been designated to represent their craft.

I trust that the foregoing addresses your concerns.

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

AUGUST 24, 2018 (7187)

This is in reply to your various emails, sent from July 21-26, 2018, concerning issues you have sought to appeal to the Committee on Appeals. In response to your specific questions, I can provide the following general guidance, none of which should be read to express any view as to any pending dispute in Branch 70.

First, a ruling by the chair of a Branch meeting that an appeal is out of order would normally be subject to challenge at the Branch meeting so that the members could vote on the matter. The refusal of the chair to allow a vote could justify appealing the issue directly to the National Committee on Appeals.

Second, so far as I am aware, Branch 70 has not been granted any extensions with respect to appeals you have submitted.

Third, I did provide advice to President Guzman with respect to the reading of appeals at a 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.

Fourth, it is my understanding that your appeal with respect to your removal as a steward has been submitted by the Branch and is now pending before the Committee on Appeals.

Fifth, it is not possible to provide a universal definition of “gross misconduct.” Each case must be evaluated on the basis of the facts presented.

Finally, I am referring your email of July 26 to the Committee on Appeals for consideration in connection with your appeal.

I trust that the foregoing addresses your concerns. Once again, I take no position with respect to the merits of any pending appeal.

**SUSAN PITTMAN, TALLAHASSEE,
FL, BRANCH 1172**

AUGUST 24, 2018 (7188)

Your email to Secretary-Treasurer Nicole Rhine, sent July 26, 2018, has been referred to me for reply. Your email seeks clarification of the authority of the President of Branch 1172 to assign stewards who have been elected or appointed in one station to different stations.

At the outset, your email does not provide sufficient detail for me to offer any comment on the particular actions which prompted you to write to Sister Rhine. However, I can offer the following general guidance.

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, Article 6, Section 1 provides that the Branch President is Chief Shop Steward of the Branch. The President, therefore, retains the ultimate authority to supervise all stewards in the performance of

their duties, regardless of whether they are elected or appointed.

Of course, any exercise of presidential authority must be consistent with the Branch By-laws. However, it would be inappropriate for me, as National President, to offer an opinion on the meaning of the Branch 1172 By-laws. Disputes over the meaning or application of by-law provisions must be resolved, in the first instance, at the Branch level. Any decision by the President with respect to the application of the By-laws may be appealed to 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.

Finally, the assignment of stewards to represent employees in offices other than their own would have to be consistent with the National Agreement. Please note, however, that Article 17, Section 2.B. of our new Agreement was amended to allow the Union to designate a “representative” to handle specific grievances or problems instead of the regular steward. The Agreement no longer limits this option to “officers”.

I trust that the foregoing addresses your concerns.

**MICHAEL WAHLQUIST, SALT LAKE
CITY, UT, BRANCH 111**

SEPTEMBER 10, 2018 (7212)

This is in reply to your letter, dated August 13, 2018, concerning the status of a recent amendment to the Branch 111 By-laws.

According to your letter, the By-law amendment in question provided for the creation of a new officer position of Executive Vice President. The amendment was read at the Branch’s meeting on February 8; the text of the amendment was published in the Branch newsletter along with timely notice that there would be a vote on the proposal at the March meeting; and the members voted to approve the amendment at the March 8 meeting. The amendment was sent to the Committee of Laws which approved it. You subsequently appointed the Branch Vice President to fill the new position and appointed another member as Vice President.

The foregoing was entirely consistent with the requirements for amending Branch By-laws set forth in Article 15 of the NALC Constitution. However, you have since discovered that the Branch inadvertently failed to comply with a separate provision in the Branch By-laws requiring that proposed amendments be submitted to the Branch Secretary at least one month prior to the meeting at which they are submitted (here the February meeting). You now request dispensation permitting the Branch to maintain the already approved By-law amendment in effect, notwithstanding this technical inconsistency with the Branch's amendment procedure.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. The Branch may maintain the approved By-law in effect without conducting another vote.

I trust that the foregoing addresses your concerns.

**RICH HARPER, STATE COLLEGE,
PA, BRANCH 1495**

SEPTEMBER 10, 2018 (7214)

This is in reply to your letter, dated August 9, 2018, in which you raise several issues pertaining to charges that have been filed against you as President of Branch 1495 under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

At the outset, it would be inappropriate for me to resolve the issues raised in your letter, based solely on the limited information provided in your letter. I can provide the following general guidance.

First, you claim that the charges were not signed. Article 10, Section 2 of the CGSFB does explicitly state that "charges . . . must be signed by a member of the Branch." This is a constitutional requirement that should be enforced. However, the copy of the charges that you forwarded to me is a two page document that does reflect the signature of the charging member on the second page. It is not required that both pages be signed.

Second, Article 10 does not require that the charging party submit the

charges under seal. Article 10, Section 2 provides that a copy of the charges be served on the charged party "under seal or letterhead of the Branch." It is the Branch's responsibility to serve the charges on the charged party. The charging party is only required to submit the charges to the Branch.

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 letter raises several issues with respect to the appointment of the investigating committee. Normally, the committee is to be appointed by "[t]he president, or if the president be the person against whom charges are made, the vice president." However, as previous rulings have recognized, the vice president should not appoint the committee if he/she is likely to be involved in the investigation of charges as a witness or has otherwise been involved in the preparation of the charges.

It would be inappropriate for me to offer an opinion as to whether Vice President Mundy should appoint the committee since I only have your side of the story before me. Please note that I am providing him a copy of this letter so that he may consider whether to recuse himself.

If the Vice President cannot appoint the committee, then the next highest ranking officer should do so. If there are no other officers eligible to appoint the committee, then the investigating committee may be appointed by action of the members of the Branch. Specifically, the Branch could nominate and elect members to the committee at a regular or special meeting. Alternatively, the members could vote to select an individual disinterested Branch member to appoint the members of the committee.

Finally, according to your letter, there are no disinterested members of the

Branch eligible to serve on the committee. You have requested that the National Union become involved.

I have in the past authorized National Business Agents to appoint investigating committees where the Branch has been unable to do so. However, it would not be proper for me to do so based on your request since you are the charged party in the case. I would be willing to consider such a request from whichever officer assumes responsibility for appointing the committee.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to reflect any view as to the merits of the charges against you.

**CHARLES BONNER, PALM DESERT,
CA, BRANCH 4149**

SEPTEMBER 10, 2018 (7216)

This is in reply to your email, sent on September 5, 2018, in which you ask various questions regarding a request by a member of Branch 4149 for minutes and recordings of certain Branch meetings, as well as specified financial records.

At the outset, the dispute described in your email 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 that apply to this situation.

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 Constitution for the Government of Subordinate and Federal Branches (CGSFB). Accordingly, in the situation described in your letter, your denial of access to either the minutes themselves or the

recordings used to create the minutes may be appealed to the Branch under Article 11, Section 1.

The only provision of the Constitution that is directly relevant to the request for access to financial records is Article 6, Section 4 of the CGSFB which states that the Financial Secretary of the Branch “shall keep an account of all properties, investments, and funds of the Branch which at all times shall be open for inspection.” Prior presidential rulings have recognized that the specific manner of inspecting the books is left to the discretion of the Branch.

Apart from the Constitution, federal law requires that the Branch permit members “for just cause to examine any books, records, and accounts necessary to verify” the Branch’s LM-2 Report. I am in no position to offer an opinion as to whether just cause exists in this case (although nothing in the correspondence that you forwarded to me indicates that the requesting member is asserting a claim under the law).

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

I trust that the foregoing, at least in part, addresses your concerns.

TOM FISHER, BURLEY, ID, BRANCH 1857

SEPTEMBER 18, 2018 (7231)

This is in reply to your letter, dated September 7, 2018, requesting dispensation permitting Branch 1857 to conduct a special election of officers. According to your letter, the Branch has not had an election in more than eleven years.

Section 3.1 of the NALC Regulations Governing Branch Election procedures specifically requires that Branches hold elections of officers at least every three years. This provision reflects the requirements of the NALC Constitution (see Article 4, Section 2 of the Constitution for the Government of Subordinate and Federal Branches), as well as fed-

eral law. Therefore, assuming that the facts are accurately stated in your letter, it is imperative that the Branch conduct a special election of officers as expeditiously as possible.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 1857 dispensation to conduct a special election. By copy of this letter, I am requesting that National Business Agent Paul Price provide to the Branch whatever guidance and assistance it may need to bring itself into compliance with the Constitution.

I trust that the foregoing addresses your concerns.

DAVID GROSSKOPF, JR., CHEEK-TOWAGA, NY, BRANCH 3

SEPTEMBER 18, 2018 (7232)

This is in reply to your email, sent on September 12, 2018, requesting advice regarding a delay in the mailing of Branch 3’s notice of nominations and election of state and national convention delegates. According to your email, the mailing of the Branch newsletter, which contains the notice of nominations and elections, was mailed on September 10 which is less than 45 days before the October 17 general membership meeting at which nominations are scheduled.

The information that you have provided does not indicate that there is a problem. According to your email, October 17 is the date nominations are scheduled, while the election, if necessary, would not take place until the November meeting. The 45-day rule provided by the Branch 3 By-laws (which tracks Article 5, Section 4 of the NALC Constitution) applies to the date of the election, not the date of nominations.

Under Section 6.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP), the notice of nominations and elections must be sent out 10 days before nominations are held. Therefore, it appears that the Branch mailing of the newsletter on September 10 has satisfied both the 10 day deadline for the nominations meeting and the 45 day requirement for the election itself.

I trust that the foregoing satisfies your concerns.

GEBRAIEL HAMM, COLUMBIA, SC, BRANCH 233

SEPTEMBER 18, 2018 (7234)

This is in reply to your letter, dated September 12, 2018, requesting dispensation to reopen Branch 233’s nominations of certain officer positions at its October meeting and to conduct its election in November. The election is presently scheduled for October 3. According to your letter, the Branch’s notice of nominations and election was not published in The Postal Record. The notice was posted in the stations.

The facts set forth in your letter do indicate that a postponement is necessary. However, the proposal to mail a notice of nominations to retirees only is not appropriate. Article 5, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches requires that all members receive a notice of nominations and election by mail.

Therefore, in light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 233 dispensation to reopen nominations at its October 3 meeting and to postpone its election to November. The Branch must provide appropriate and timely notice by mail to all members.

Please understand that this dispensation applies only to the 2018 nomination and election of officers. 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.

RICH HARPER, STATE COLLEGE, PA, BRANCH 1495

SEPTEMBER 25, 2018 (7241)

This is in reply to your letter, dated September 14, 2018, concerning the actions of the Branch 1495 committee that is investigating charges against you. Your letter asserts that the Vice President, who appointed the commit-

tee, has improperly met with the committee members and requested Branch financial records on their behalf.

As I noted in my previous letter, it would be entirely inappropriate for me to comment on the specific allegations in your letter, particularly since the 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 and examine relevant Branch records.

I cannot comment on whether the investigating committee proceeded improperly by meeting with the Vice President prematurely or allowing him to submit financial records to them. 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.

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

OCTOBER 1, 2018 (7244)

This is in reply to your letter, dated

September 21, 2018, requesting guidance as to how Branch 22 should proceed with its election. According to your letter, the Branch By-laws provide for nominations at its October meeting and an election, if necessary, at the December meeting. However, it appears that the Branch's notice of nominations and election was never received by *The Postal Record*. Accordingly, the members have not yet received a timely notice of nominations and election of Branch officers.

At the outset, it is not necessary to postpone nominations to January as suggested in your letter. 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, depending on the date of the October meeting, it may be possible for the Branch to mail a timely notice of nominations that will allow it to maintain the schedule provided in its By-laws. If it is no longer possible to mail a notice 10 days before the October meeting, then the Branch may hold its nominations at its November meeting and conduct the election in December.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution I hereby grant Branch 22 dispensation to postpone its nominations of officers to its November meeting, provided such postponement is necessary to allow the Branch to provide its members at least 10 days' notice of nominations.

I trust that the foregoing addresses your concerns.

**CHRISTOPHER BURSON,
MODESTO, CA, BRANCH 1291**

OCTOBER 2, 2018 (7238)

This is in reply to your letter, dated September 13, 2018, concerning the application of Brother Walt Butler to transfer his membership from former

Branch 4850 to Branch 1291. According to your letter, certain members of Branch 1291 have objected to the transfer and have sought to have the members vote on whether to accept Brother Butler as a retiree member.

The question whether Brother Butler is eligible to transfer to Branch 1291 is governed by Article 2, Section 3(a) of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). It provides, in pertinent part, that a "retiree in good standing in his/her Branch moving to another city, may transfer membership to the Branch located in such city." Previous rulings have recognized that the intent of this provision is to allow NALC members to transfer to the closest Branch to their residence when they retire. That will enable them, if they so choose, to continue to participate in Union activities without having to travel to the Branch where they worked. Accordingly, if Brother Butler resides in a location within the jurisdiction of Branch 1291, then he would have the constitutional right to transfer his membership to Branch 1291.

Paragraph (c) of Article 2, Section 3, cited in your letter, outlines the procedure for implementing the transfer of a retiree's membership from one Branch to another. The member must make application to the Recording Secretary of his/her current Branch who must ascertain from the Financial Secretary if the member is in good standing. At the next meeting of the Branch, the Recording Secretary is to announce that the application has been received and that all financial obligations have been discharged. If there are no objections, the Recording Secretary is obliged to forward to the Recording Secretary of the Branch with which affiliation is desired a letter of recommendation which is to be read at the first regular meeting of the receiving Branch after its receipt. The Recording Secretary of the receiving Branch may then notify the original Branch that the transferee has been received into membership. After these steps are completed, the receiving Branch should provide notice of the transfer to the NALC Membership Department at Headquarters.

As you correctly note in your letter, the language of Article 2, Section 3 does not give the receiving Branch discretion to refuse a transfer if the procedure outlined in paragraph (c) of that section is properly followed. Accordingly, in response to your first question, a vote on whether to allow the transfer would be out of order, so long as Brother Butler is eligible to become a member of Branch 1291 under paragraph (a) of Article 2, Section 3.

Finally, in response to your second question, if the application for the transfer was received by Branch 1291 before the merger of Branches 4850 and 213 went into effect, then the recommendation letter received from Branch 4850 would still be considered official. If the merger had already gone into effect by the time the transfer application was received, then you should use the letter from Branch 213 as the official letter.

I trust that the foregoing addresses your concerns.

APRIL HUDSON & BESTY COLEMAN, DECATUR, IL, BRANCH 317

OCTOBER 2, 2018 (7245)

This is in reply to your letter, received by my office on September 25, 2018, requesting dispensation to postpone Branch 317's nominations of delegates to the 2019 Illinois State Convention. According to your letter, the Branch inadvertently failed to send a timely notice of nominations and election of delegates. You now request dispensation permitting the Branch to conduct nominations at its meeting on November 13, 2018.

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 may conduct nomination of delegates at its November meeting and an election, if needed, in December.

Please understand that this dispensation applies only to the nomination and election of delegates to the 2019 Illinois State 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.

I trust that the foregoing addresses your concerns.

THOMAS CSER, BETHLEHEM, PA, BRANCH 274

OCTOBER 9, 2018 (7247)

Your email to Secretary-Treasurer Nicole Rhine, sent September 25, 2018, has been referred to me for reply.

Your email asks us to interpret two provisions of the Branch 274 By-laws. Article X, Section 1a establishes a Branch dues structure which obligates active members to pay a monthly amount equal to 2.2 hours base pay for a Grade 1, Step D letter carrier. This formula obviously results in periodic increases in the amount of dues corresponding to increases in letter carrier pay. However, Article X, Section 4 provides that the rates of dues may only be increased by majority vote of the members at a regular or special meeting. You now ask whether these two provisions are in conflict.

At the outset, it would be inappropriate for me to interpret the language of the Branch By-laws. Disputes over the interpretation or application of By-laws must be resolved, in the first instance, at the branch level. However, I can provide the following guidance as to the application of the analogous provisions of the NALC Constitution to the issue you have raised.

Article 7, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches also states that "The rates of dues and initiation fees may be increased only by majority vote by secret ballot of the regular members in good standing at a special or regular meeting." Notwithstanding this language, previous rulings have held that a By-law which provides for automatic dues increases based on a fixed formula is permissible so long as the amount of the increase is readily determinable and the By-law was originally adopted in accordance with the procedures set forth in Article 15 of the NALC Constitution. If these conditions have

been met, then dues increases mandated by the By-law may be implemented automatically without an additional vote of the Branch.

I trust that the foregoing addresses your concerns.

GARY SMITH, OCALA, FL, BRANCH 1103

OCTOBER 19, 2018 (7260)

This is in reply to your letter, dated October 7, 2018, requesting dispensation permitting Branch 1103 to conduct new nominations of Branch officers. According to your letter, at the regularly scheduled nominations meeting, no members accepted nomination to any office.

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 nominations, and, if necessary, the election, should be conducted as expeditiously as possible. The Branch must provide a timely new notice of nominations and election to the members.

Please understand that this dispensation applies only to the nomination and election of officers for the next term of office. 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.

I trust that the foregoing addresses your concerns.

ALICIA REDDING, FAYETTEVILLE, NC, BRANCH 1128

OCTOBER 25, 2018 (7263)

This is in reply to your letter, dated October 18, 2018, requesting guidance as to the eligibility of a member of Branch 1128 to be a candidate for the office of Trustee in the upcoming Branch election. According to your letter, this member was found guilty of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). As penalty, he was disqualified from representing letter carriers for a period of two years beginning December 16, 2016.

While I appreciate that this is a divisive issue for the Election Committee, I must advise that it would be entirely inappropriate for me to intervene in this matter. As National President, it is my responsibility to rule on the interpretation and application of the NALC Constitution. However, the issue presented in your letter concerns the interpretation and application of the penalty imposed by the Branch. These issues must be resolved by the Branch itself. The Branch President may make an initial ruling that would be subject to appeal to the members attending the next Branch meeting, as provided by Article 11, Section 1 of the CGSFB.

I can provide advice as to the duties of a Branch Trustee. These duties are set forth in Article 6, Section 9 of the CGSFB:

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 Trustees of Branch No. of the National Association of Letter Carriers of the United States of America.

Finally, any determination made by the Election Committee, the Branch President, or the Branch itself concerning the eligibility of a potential nominee would be subject to a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures.

I trust that the above addresses your concerns, at least in part.

JOSEPH ROLLERI, FRESH MEADOW, NY, BRANCH 294

OCTOBER 31, 2018 (7264)

This is in reply to your email, received October 23, 2018, requesting guidance concerning alleged campaign misconduct and misuse of union resources in the election of officers in Branch 294.

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 allegations of campaign misconduct, 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 investigate and 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 appeal.

ALBERTO APONTE, AUSTIN, TX, BRANCH 181

NOVEMBER 13, 2018 (7288)

This is in reply to your letter, faxed to NALC Headquarters on November 7, 2018, requesting dispensation permitting Branch 181 to conduct its nominations and election of delegates to the 2019 Texas State Convention out of time. According to your letter, the Branch inadvertently failed to nominate delegates at its October meeting, as required by the By-laws. You now request dispensation permitting the Branch to nominate delegates at its meeting on November 15.

Unfortunately, it does not appear that there is sufficient time to permit nominations to take place on November 15. Section 6.1 of the NALC Regulations Governing Branch Election Procedures requires the Branch to provide a notice of nominations and election to each member at least ten days before the nominations meeting. This notice requirement does apply to nomination and election of state delegates. Since the Branch has not yet notified the members that nominations will take place at the November meeting, it cannot proceed on that date.

The Branch may conduct nominations for its state delegates at its December meeting. Accordingly, in light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I

hereby grant Branch 181 dispensation to do so. If necessary, an election may be scheduled in January. 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 delegates to the 2019 Texas State 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.

TERESA BOYD, TALLAHASSEE, FL, BRANCH 1172

NOVEMBER 21, 2018 (7300)

This is in reply to your letter, received by my office on November 19, 2018, requesting dispensation permitting Branch 1172 to postpone its nominations and election of delegates to its December 2018 and January 2019 meetings. According to your letter, the Branch was unable to nominate delegates at its November meeting, as required by the By-laws, due to the impact of Hurricane Michael.

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, subject to the condition that the Branch provide timely notice of the new nomination and election dates to its members. Article 5, Section 5 (b) of the NALC Constitution and Section 6.1 of the NALC Regulations Governing Branch Election Procedures requires the Branch to provide a notice of nominations and election of delegates to each member at least ten days before the nominations meeting. If there is not sufficient time to meet this deadline, then nominations of delegates should be conducted at the January meeting and an election, if necessary, should be held at the February meeting.

Please understand that this dispensation applies only to the 2018 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.

**ALBERTO APONTE, AUSTIN, TX,
BRANCH 181**

NOVEMBER 27, 2018 (7288)

This letter modifies my ruling, dated November 13, 2018.

In light of your email, sent on November 14, advising that Branch 181 will not have a meeting in December, the Branch may conduct nominations for its state delegates at its January meeting. If necessary, an election may be scheduled in February. As previously noted, the Branch must provide appropriate and timely notice to the members as expeditiously as possible.

I trust that the foregoing addresses your concerns.

DANA CULPEPPER, EAGLE PASS, TX

**TEXAS STATE ASSOCIATION OF
LETTER CARRIERS**

NOVEMBER 28, 2018 (7265)

This is in reply to your letter, dated October 20, 2018, requesting guidance as to the appropriate procedures to be followed at the 2019 Texas State Association Convention. In particular, you raise four specific questions regarding voting with and without the use of the unit rule.

In response to your first and third questions, the rulings have consistently held that even where a State Association decides to allow delegates the option of voting by the unit rule, the delegates of any given Branch cannot vote the unit rule unless its delegates agree unanimously to do so. Thus, a single delegate can block the Branch's use of the unit rule.

In response to your second question, the rulings have also recognized that, if no State Association delegate objects, to facilitate the election process the Branch delegates who wish to cast their votes as a group may do so, even if the Branch has not adopted the unit rule.

In response to your fourth question, presidential rulings have established that it is up to each State Association to determine whether to allow the unit rule. Thus, it would be the TSALC that

would decide whether to authorize Branch delegations to vote in block.

Finally, President Young's ruling, dated April 14, 2009, which you attached to your letter, is generally applicable to all state associations.

I trust that the foregoing addresses your concerns.

**PATTY CRAMER, MONTEREY, CA,
BRANCH 1310**

NOVEMBER 28, 2018 (7287)

This is in reply to your letter, dated October 29, 2018, inquiring whether Branch 1310 may vote to allow a member to serve as a steward, notwithstanding the fact that she briefly served as a 204-B supervisor within the past two years.

While I appreciate that there may be legitimate reasons for having this member serve as a steward, I must advise that the answer to your question is no. Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches expressly provides that any member who holds a supervisory position in the Postal Service "whether one (1) day or fraction thereof, either detailed, acting, probationary or permanently is ineligible to hold any office or position in the Branch for a period of two years following the termination of supervisory status.

There are no exemptions from this rule. There is no constitutional language that would authorize the Branch to vote to waive this clear prohibition.

I regret, therefore, that I cannot provide a favorable reply.

**SAMUEL SWANSON, SHERWOOD,
AR, BRANCH 3745**

NOVEMBER 28, 2018 (7295)

This is in reply to your letter, received by my office on November 14, 2018, concerning the failure of Branch 3745 to arrange for timely publication of a notice in The Postal Record that the Branch would be conducting nominations at its November 8 meeting. According to your letter, the Branch proceeded with nominations and only one member was nominated. You now ask for approval of this member's election by acclamation.

I assume that you are referring to the nomination and election of delegates, rather than Branch officers. However, even if that is the case, the nomination cannot be approved. Consistent with federal law, Article 5, Section 5 (b) of the NALC Constitution and Section 6.1 of the NALC Regulations Governing Branch Election Procedures requires the Branch to provide a notice of nominations and election of delegates to each member at least ten days before the nominations meeting and four weeks before the date of the election.

Accordingly, in light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 3745 dispensation to conduct nominations for its delegates at its January 2019 meeting. If necessary, an election may be conducted at the February meeting. The Branch must provide appropriate and timely notice to the members as expeditiously as possible.

Please understand that this dispensation applies only to the 2018 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.

**DAVID MCGUIRE, PHOENIX, AZ,
BRANCH 576**

NOVEMBER 28, 2018 (7285)

This is in reply to your email, sent November 1, 2018, concerning the ongoing mail ballot election in Branch 576.

I do appreciate your concerns regarding the Election Committee's apparent decision to mail out a second set of ballots. However, it would be entirely inappropriate for me to comment on those matters based on the limited information presented in your email.

All objections to the conduct of an election, including issues pertaining to the mailing of ballots, 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 future appeal.

**MARK MYERS, SEATTLE, WA,
BRANCH 79**

NOVEMBER 30, 2018 (7305)

This is in reply to your email, sent November 29, 2018, concerning the impact of the city letter carrier pay grade consolidation on Branch 79's dues structure and officer compensation. According to your email, the Branch's By-laws provide formulas for member dues and officer compensation based on City Carrier Grade 1, which no longer exists. You now ask whether the Branch can receive dispensation permitting it to treat the references to Grade 1 in its By-laws as if it actually referred to the new City Carrier rate.

Separate responses are required for the Branch dues and officer compensation.

Dues. The 2018 National Convention in Detroit approved an amendment to Article 7, Section 2(a) of the NALC Constitution providing that after November 24, 2018 the minimum monthly Branch dues would be two hours base pay for an NALC Step D letter carrier in the consolidated City Carrier grade level (Table One) implemented on that date. Since the Constitution takes precedence over Branch By-laws, all Branches which maintain the minimum dues will have their dues adjusted automatically to conform to the Constitution. This adjustment will take place in January.

However, I have been advised that Branch 79's current dues are higher than the minimum dues and will continue to be higher after the January adjustment of the minimum dues. In accordance with federal law, Article 7, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provide that Branch dues must be authorized by vote of the members. A previously approved By-law provision

which provides a formula which results in automatic dues increases is consistent with this requirement. However, an increase which is not supported by existing By-law language is not permissible.

Accordingly, any adjustments in Branch 79's dues must be based on the current Grade 1 formula until such time as the Branch amends its By-laws.

Officer compensation. All expenditures by the Branch, including officer compensation, must be approved by vote of the members as provided by Article 12, Section 3 of the CGSFB. Article 12, Section 3 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 officer compensation in advance through its By-laws. Disputes over whether an officer's compensation is consistent with the By-laws must be addressed, in the first instance, at the Branch level. Thus, it is up to the Branch to determine whether the existing Branch 79 By-law provisions pertaining to officer compensation can fairly be read to authorize an adjustment based on the city carrier pay consolidation. The Branch's decision would be subject to appeal to the National Committee on Appeals.

I trust that the foregoing addresses your concerns.

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

NOVEMBER 30, 2018 (7306)

This is in reply to your email, sent November 14, 2018, inquiring whether a member of Branch 70 is eligible to be a candidate in a shop steward election. According to your email, this member served in an ad-hoc position to do route inspections.

The determination of whether a particular position is supervisory must be done on a case-by-case basis. From the limited information provided, the answer to the question turns on whether the member represented the union or management while inspecting routes.

As previous rulings have recognized, an individual conducting mail count and route examinations on behalf of postal management must be considered to be acting in a supervisory capacity. Accordingly, a member who accepts such a position would be disqualified from holding office in the branch under Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches.

I trust that the foregoing addresses your concerns.

**MICHAEL HOLBERT, DAYTON, OH,
BRANCH 182**

DECEMBER 10, 2018 (7286)

This is in reply to your letter, dated October 28, 2018, concerning the recent nomination of delegates in Branch 182. Please note that I am providing a copy of this letter to each of the other members who signed your letter.

In response to your inquiry, Article 5, Section 5(a) of the NALC Constitution, which establishes that each regular member has the right to nominate a delegate, should not be read to restrict members to nominating only one delegate at a time. Most Branches are entitled to more than one delegate. Accordingly, it is reasonable for Branches to permit members to nominate multiple candidates for its delegate positions at the same time.

Section 6.2 of the NALC Regulations Governing Branch Election Procedures, which you cite in your letter, is not to the contrary. It provides that "Each regular member has the right to nominate a candidate for any office or position to be filled." This language, on its face, permits members to make nominations for each delegate position to be filled. It does not require that such nominations be made one at a time.

Of course any nomination procedure should not be implemented in a manner which restricts the right of any member to nominate delegates. If the number of nominees exceeds the number of delegate positions, then the Branch will be required to conduct an election.

I trust that the foregoing addresses your concerns.

**WILLIAM RALEIGH, WARWICK, RI,
BRANCH 3166**

DECEMBER 10, 2018 (7302)

This is in reply to your email, sent November 20, 2018, inquiring whether the Secretary of Branch 3166 and one of the Branch's stewards may switch positions.

So far as the NALC Constitution is concerned, the proposed arrangement would be permissible. Both could simply resign their present positions. As President, you would have the constitutional authority to appoint the steward to fill the vacant Secretary position under Article 4, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. (CGSFB). You would also have the authority to appoint the former Secretary to serve as a steward under Article 6, Section 1 of the CGSFB.

The one potential impediment would be the Branch By-laws. Branches may provide in their By-laws for an order of succession or a special election to fill officer vacancies. Similarly, Branch By-laws may provide that stewards must be elected. As President, you may not take any action that is contrary to the Branch By-laws. However, absent any By-law provisions to the contrary, you may fill any officer or steward vacancies by appointment.

I trust that the foregoing addresses your concerns.

**TONY BOYD, JR., SAN ANTONIO,
TX, BRANCH 421**

DECEMBER 14, 2018 (7319)

This is in reply to your email, sent December 13, 2018, requesting dispensation permitting Branch 421 to use its monthly newsletter to provide notice of nominations and a special election to fill a vacancy in the office of assistant recording secretary. According to your email, the Branch By-laws require such notice to be published in the Postal Record, but there is insufficient time to do so. The newsletter, however, will satisfy all notification requirements.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Consti-

tution, I hereby grant the requested dispensation.

I trust that the foregoing addresses your concerns.

**BRADLEY JASPER, YONKERS, NY,
BRANCH 387**

DECEMBER 20, 2018 (7312)

This is in reply to your letter, dated November 21, 2018, requesting that I issue a presidential dispensation permitting Kevin Meehan to be reinstated as a retiree member of Branch 387.

It appears that Brother Meehan's membership lapsed after his 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 at the time of his retirement Brother Meehan had been hospitalized for treatment for Agent Orange exposure during his military service in Vietnam.

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 have directed Secretary-Treasurer Nicole Rhine to process Brother Meehan's Form 1189. To complete his reinstatement, he will be required to pay all dues that accrued during the period when his membership lapsed. By copy of this letter I am instructing Sister Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment and reinstatement of Brother Meehan's membership.

**LUIS RIVAS, JR., DES PLAINES, IL,
BRANCH 2076**

DECEMBER 20, 2018 (7313)

Your email to NALC Secretary-Treasurer Nicole Rhine, sent December 2, 2018, has been referred to me for reply. Your email requests guidance regarding an error committed by Branch 2076 in conducting its mail ballot 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 2076 dispensation 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.

I trust that the foregoing addresses your concerns.

**SARA GRESHAM & JACQUELINE
SHABAZZ, NEWPORT NEWS, VA,
BRANCH 609**

DECEMBER 20, 2018 (7320 & 7321)

This is in reply to your two emails, sent December 16 and 17, 2018, inquiring whether Branch 609 President Jeanine Gasper has the authority to remove you from the offices of Branch Recording Secretary and Treasurer. According to your emails, Sister Gasper appointed you to your respective offices and recently announced that you were being "unappointed".

At the outset, please be advised that it would be inappropriate for me to comment on the specifics of your apparent dispute with Sister Gasper, particularly since I only have your side of the story before me. I can provide the following general guidance. Please note that I am providing a copy of this letter to Sister Gasper.

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 2 of the CGSFB. That section specifically states that "the Branch President may appoint the successor *until the next*

regular election.” (Emphasis supplied.)

The foregoing comments are directed solely to the Branch President’s appointment authority and the removal of officers. I express no view as to any other actions Sister Gasper may have taken as Branch President. Please note that Article 6, Section 1 of the CGSFB provides that the President shall “have general supervisory powers over the Branch [and shall] see that officers perform their duties.”

I trust that the foregoing addresses your concerns.

**TONY BOYD, JR., SAN ANTONIO,
TX, BRANCH 421**

DECEMBER 20, 2018 (7333)

This is in reply to your email, sent December 17, 2018, requesting dispensation permitting Branch 421 to vote on its proposed merger with the Hondo, Texas Branch outside the 90 day period prescribed by Article 2, Section 3(a) of the NALC Constitution. According to your email, Branch 421 was prevented from conducting the vote as scheduled at its last meeting because time limits on the meeting ran out.

In light of the facts set forth in your email, and in accordance with my authority under Article 9, Section 1 of the Constitution, I hereby grant the requested dispensation.

I trust that the foregoing addresses your concerns.

**SHEILA GARDNER, ROHNERT
PARK, CA, BRANCH 214**

DECEMBER 21, 2018 (7336)

Your letter to Secretary-Treasurer Nicole Rhine, dated November 15, 2018, has been referred to me for reply, insofar as your letter raises an issue of constitutional interpretation. In particular, you have questioned the authority of a Branch President to assign the duties of a temporarily absent officer to a member who does not occupy elective office.

The NALC Constitution grants to Branch Presidents extensive supervisory authority over the Branch. Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches 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.” This provision confers upon the Branch President the authority to assign the duties of an officer who is temporarily absent to other elected officers. My understanding is that this is the practice that has been recommended in workshops at the NALC Convention. However, previous rulings have also recognized that Article 6, Section 1 also authorizes the President to fill a temporary vacancy by appointing a member to fill the position until the incumbent officer returns. This procedure has been used, for example, when Branch officers who are reservists have been called up for extended military service.

I appreciate you raising additional issues pertaining to Branch 214’s governance and financial practices. I am considering assigning one of the NALC Trustees to look into this matter and providing additional guidance to the Branch.

I trust that the foregoing addresses your concerns. Thank you for bringing this matter to our attention.

**MICHAEL HORTON, TOPEKA, KS,
BRANCH 10**

DECEMBER 21, 2018 (7337)

This is in reply to your letter, dated December 11, 2018, requesting dispensation permitting Branch 10 to postpone its election of officers from the December meeting to the February, 2019 meeting. According to your letter, this request is necessitated by the fact that the Branch’s notice was not sent out in a timely manner and was missing pertinent information.

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. If necessary, the Branch may conduct nominations at its January meeting.

Please understand that this dispensation applies only to the current nominations 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.

I trust that the foregoing addresses your concerns.

**TONYA FLEMING, EUREKA, CA,
BRANCH 348**

DECEMBER 21, 2018 (7338)

This is in reply to your email, sent December 18, 2018, requesting guidance regarding the installation of Branch 348 officers following the recent election.

Your first question asks when Branch officers take office. Article 5, Section 6 of the Constitution for the Government of Subordinate and Federal Branches requires that the installation of Branch officers take place at the first or second meeting of the Branch following their election. As prior rulings have recognized, newly elected officers should not assume the duties of the offices to which they have been elected until after they have been installed.

Your second question is whether the pendency of a post-election appeal impacts the timing of an installation. The answer to this question is no. Consistent with federal law and Department of Labor regulations, presidential rulings have consistently held that the outcome of a Branch election is presumed to be valid, pending the completion of the appeal process. This means that the winners of the election, as determined by the ballots received and counted by the Election Committee, must be installed as scheduled, even if an appeal is still pending, or a new election is ordered.

I trust that the foregoing addresses your concerns.

**KATHRYN THOMSON, PEORIA, AZ,
BRANCH 576**

DECEMBER 28, 2018 (7310)

This is in reply to your letter, received by my office on October 25, 2018. I apologize for the delay in responding.

At the outset, I appreciate that you have written to me to express your concerns about a candidate for office in Branch 576. However, it would be inap-

appropriate for me to comment on the specifics of your allegations, particularly since I only have your side of the story before me.

In any event, as National President I cannot summarily disqualify a candidate for Branch office or expel him from membership. The appropriate procedure for suspending or expelling a member 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.

In addition, all objections to the conduct of an election, including claims of campaign misconduct by candidates, 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 investigate and 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.

I trust that the foregoing addresses your concerns, at least in part. This letter should not be read as expressing any view as to the merits of any issues which may be raised by any charges or appeal.

**CRAIG NERO & JOSEPH ROLLERI,
FRESH MEADOW, NY, BRANCH 294
DECEMBER 28, 2018 (7315)**

This is in reply to your letter, dated November 28, 2018, in which you make specific allegations of misconduct against the President and Vice President of Branch 294. According to your letter, you have filed charges against Brothers Paolillo and Carney which, I assume, remain pending.

At the outset, I recognize that you have raised very serious issues regarding the finances and governance of the Branch. Nonetheless, 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.

Nor would it be appropriate for me to offer any advice or comments. The dispute described in your letter must be addressed initially at the branch level.

The charge procedure provided by Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), which you have invoked, is the precise mechanism for resolving your issues. The final disposition of this matter by the Branch would then be subject to appeal. As provided by Article 11 of the CGSFB, the Branch's decision may be appealed to the National Committee on Appeals.

I trust that the foregoing addresses your concerns, at least in part. This letter should not be read as expressing any view as to the merits of your charges or any appeal.

**JOSE CENTENO, DAYTON, OH,
BRANCH 182
DECEMBER 28, 2018 (7339)**

This is in reply to your letter, dated October 18, 2018, requesting that I issue a presidential dispensation permitting you to be reinstated as a retiree member of Branch 182.

It appears that your membership lapsed after your retirement because the NALC never received a Form 1189, as required by Article 2, Section 2(e) of the NALC Constitution. According to your letter, and information provided by the Branch, at the time of your retirement you were losing your sight due to a service related injury, and in March 2016 you were admitted to the Blind Rehabilitation Center in Cleveland.

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 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.

I trust that the foregoing addresses your concerns.

**NANCY NORMAN, PASADENA, CA,
BRANCH 2200**

DECEMBER 28, 2018 (7342)

This is in reply to your letter, dated December 17, 2018, concerning the rerun election Branch 2200 is presently conducting for the office of Vice President, following a tie vote. You ask for guidance as to whether the Branch should count the votes of new members who were not eligible to vote in the original election.

The answer to your question is yes.

Article 5, Section 3 of the Constitution for the Government of Subordinate and Federal Branches states that "All regular members shall be entitled to one vote for each office or position to be filled." In a mail ballot election, the eligibility to vote of new members (such as new hires or craft employees who recently join the Union) turns on the date that the individual executes the Form 1187. As previous rulings have consistently held, when an applicant has executed a Form 1187, he/she has done all that is required by the Constitution to attain membership status. Accordingly, a new member is eligible to vote in a Branch election immediately upon execution of the Form 1187.

Previous rulings have also recognized that the principles stated above apply to runoff and rerun elections. Therefore, new members who became members after the original election will be eligible to vote in a subsequent runoff election, so long as they have executed the Form 1187 before the runoff ballots are mailed.

I trust that the foregoing addresses your concerns.

**SHAWN TYRRELL, HALIFAX, PA,
BRANCH 500**

DECEMBER 31, 2018 (7343)

This is in reply to your letter, dated December 20, 2018, concerning the appeal you have sought to initiate in connection with the recent election of officers in Branch 500.

At the outset, please be advised that it would be inappropriate for me to comment on the specifics of a pending election appeal, particularly since I only

have your side of the story before me. I can offer the following guidance.

Section 21.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) specifically states that post-election appeals “must be mailed to the Chairperson of the Branch Election Committee within five (5) days after the date of the election.” Thus, the timeliness of an appeal is determined by the date of mailing, not the date of receipt by the Election Committee.

Section 21.1 also requires that the Election Committee respond to the appeal in writing within thirty days. Such a written response is required even if the Committee concludes that the appeal is untimely. If the Committee fails to meet the thirty day deadline, an appellant would be entitled to wait for the Committee to issue its decision before appealing to the next step of the process. Alternatively, the appellant could simply appeal to the next step, the Branch Executive Board, without having received the Committee’s decision.

Lastly, previous rulings have recognized that it is the responsibility of the Branch President to ensure that the Branch Election Committee fulfills its responsibility to rule on election appeals. Please note that I am providing a copy of this letter to Branch President Wilson.

I trust that the foregoing addresses your concerns, at least in part. Once again, this letter should not be read to express any view as to the merits of any issues raised by your appeal.

**TONYA FLEMING, EUREKA, CA,
BRANCH 349**

JANUARY 4, 2019 (7348)

This is in reply to your email, sent December 28, 2018, concerning a pending appeal by your opponent in the recent election in Branch 348. Specifically, you ask whether, as the successful candidate for Branch President, you would have the right to appeal a decision by the Branch Election Committee to sustain the appeal and order a new election.

The answer to your question is yes. Section 21.2 of the NALC Regulations Governing Branch Election Procedures (RGBEP) specifically provides that “any

aggrieved member” may appeal the decision of the Election Committee. This includes successful candidates when the appeal is sustained.

Previous rulings have also held that a decision by the Election Committee to order a rerun election should not be implemented until the appeal process has been exhausted at the Branch level. This would include an appeal to the Branch Executive Board under Section 21.2 of the RGBEP and, potentially, an appeal to the Branch under Section 21.3.

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

I trust that the foregoing addresses your concerns.

TROY CLARK, REGION 6

JANUARY 9, 2019 (7349)

This is in reply to your email, sent January 3, 2019, concerning the installation of officers in Branch 256. According to your email, the previous President was re-elected but declined to be installed for the new term. All other officers have been installed, including the newly elected Vice President. You now ask how the resulting vacancy in the office of Branch President should be filled.

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 or require a special election.

Thank you for bringing this matter to my attention. Please note that I am sending a copy of this letter to Branch Vice President Hankins. I trust that the foregoing addresses the Branch’s concerns.

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

JANUARY 18, 2019 (7362)

This is in reply to your letter, dated December 19, 2018, requesting dispensation permitting former member Kathleen Sidoti to rejoin the NALC as a retiree member of Branch 100.

The information provided with your letter indicates that the discontinuance of Sister Sidoti’s membership after her retirement was the result of misinformation provided to her 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 Sidoti must pay all dues that accrued during the period when her membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Rhine and the NALC Membership Department to calculate the back dues, and make all necessary arrangements for payment.

Please be advised that a letter will be sent to the branch, with a copy to the member, indicating the amount of the dues that are owed to NALC Headquarters. In addition, so long as Sister Sidoti remains on the OWCP rolls she will have to make timely direct payment of her dues going forward. Thereafter, Sister Sidoti will appear on your six month per capita tax billing.

I trust that the foregoing addresses your concerns.

**TONYA FLEMING, EUREKA, CA,
BRANCH 348**

JANUARY 18, 2019 (7367, 7371 & 7372)

This is in reply to your email, sent January 15, 2019, concerning your pending appeal from a decision of the Branch 348 Election Committee. By copy of this letter, I am also replying to emails from Brothers Dustin Roberto and Jeremiah Dickson asking similar questions regarding the appeal.

Your first question is whether the Branch must grant your request for copies of the original appeal and related documents reviewed by the Election Committee. The NALC Regulations Governing Branch Election Procedures (RGBEP) do not contain any provisions which specifically address this question. Nonetheless, as previous rul-

ings have recognized, in cases where the appellant would need to examine these materials to support the appeal fundamental fairness would require that an appellant be given an opportunity to review such documents. This is an issue which must be decided at the Branch level, based on the particular facts. The Committee's denial of these documents would be subject to appeal to the Executive Board and the Branch. The Branch's denial of access would be subject to appeal to the National Committee on Appeals.

All of you have asked who can participate in the Executive Board's decision. Again, previous rulings have consistently held that 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. 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, Election Committee members, or presidential appointees does not disqualify them. Ultimately, any aggrieved member may appeal the Board's decision to the Branch.

Questions have also been raised as to the interpretation and application of the provisions of the RGBEP governing requests for absentee ballots. Section 5.21 does provide that the notice of nominations and election "should also state who can request an absentee ballot, where such requests must be received and when requests must be made." However, technical defects in a notice of nominations and election, such as failure to put in information about requests for absentee ballots, normally are not grounds for overturning an election, unless the defect could have affected the outcome of the election (e.g., evidence that a significant number of members didn't request absentee ballots because they didn't know they could).

In response to a second question on absentee ballots, Sections 5.21 and

11.5 provide that a request for an absentee ballot must be "made" at least two weeks before the election. Any request from a member who is eligible for an absentee ballot which complies with the two week requirement should be honored, even if the request is received less than twelve days before the date of the election. The timetable at the end of the election booklet is not, by itself, a basis for refusing to honor a request for an absentee ballot which was mailed or otherwise submitted in a timely manner.

Finally, I am declining to address the merits of the Election Committee's ruling or the pending appeal. Those issues must first be resolved at the Branch level, subject to appeal to the National Committee on Appeals.

I trust that the foregoing addresses your concerns

GEORGE ATWOOD & REBECCA KILGORE, GAINESVILLE, FL, BRANCH 1025

JANUARY 30, 2019 (7382 & 7383)

This is in reply to your two letters, dated January 17 and 18, 2019, in which you ask me to rule on the status of Brother Atwood's resignation as President of Branch 1025.

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 letters. I can provide the following general advice.

There are no provisions in the Constitution specifying procedures for the resignation of Branch officers. 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 resigna-

tion 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).

I trust that the foregoing addresses your concerns.

TONYA FLEMING, EUREKA, CA, BRANCH 348

JANUARY 31, 2019 (7388)

This is in reply to your email, sent January 28, 2019, concerning the pending election appeal in Branch 348. According to your email, only eight of the thirteen Executive Board members attended the last meeting of the board at which the appeal was considered. You now ask whether the vote of the eight members should stand as the official Executive Board decision or whether the board should schedule another meeting that all of its members can attend.

Please be advised that there are no provisions in either the NALC Constitution or the NALC Regulations Governing Branch Election Procedures which address this matter. Generally speaking, branches are free to schedule Executive Board meetings in any manner that is consistent with their By-laws.

Accordingly, it is up to the Executive Board to decide whether to allow the vote of the eight members to stand or to schedule another vote. The only requirement is that the Executive Board's decision must not violate the Branch 348 By-laws. Your email did not indicate whether there are any relevant provisions in your Branch By-laws. If there are, it will be the responsibility of the Branch to interpret and apply them.

I trust that the foregoing addresses your concerns.

ANTHONY SCRIVANO, REVERE, MA, BRANCH 34

FEBRUARY 5, 2019 (7392)

Your email to NALC Secretary-Treasurer

Nicole Rhine, sent January 30, 2019, has been referred to me for reply. Your email raises issues concerning the current election of officers in Branch 34. According to your letter, you have requested, and have been denied, access to the Branch 34 voter list to use in connection with your candidacy. You also object to the Branch's requirement that candidate literature be distributed by the Branch's mailer, at candidates' expense.

While I appreciate your concerns, I must advise that there is no basis for any intervention by the National Union at this time. Generally speaking, there is no requirement that a Branch provide a candidate with access to its voter list to be used by the candidate to mail his/her own literature. The relevant provision is Section 9.2 of the NALC Regulations Governing Branch Election Procedures (RGBEP) which, consistent with federal law, provides that "A Branch must honor all reasonable requests to distribute campaign literature at a candidate's expense." Prior rulings have recognized that contractors may be assigned the task of mailing candidate literature.

In any event, all complaints regarding the conduct of a Branch election must be incorporated in a post-election appeal in accordance with the procedures set forth in Section 21 of the RGBEP. Accordingly, prior to the election, it would be inappropriate for us to entertain speculation that the Branch's mailing contractor will favor incumbent candidates or that the Branch's mailing list is not up-to-date, as suggested in your email.

I trust that the foregoing addresses your concerns, at least in part. This letter should not be read to express any view as to the merits of any appeal that may be brought following the election.

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

FEBRUARY 6, 2019 (7384)

This is in reply to your letter, dated January 18, 2019, concerning the Committee of Laws' ruling that Branches may not enact By-laws requiring that the nomination of a candidate for Branch office be supported by a nominating petition signed by multiple members. As we have previously advised, the Con-

stitution for the Government of Subordinate and Federal Branches, Article 5, Section 5(a) and the NALC Regulations Governing Branch Election Procedures, Sections 6.2 and 6.4, provide that individual members have the right to nominate candidates and that candidates may nominate themselves.

**BJ HANSEN, SEATTLE, WA,
BRANCH 79**

FEBRUARY 12, 2019 (7407)

This is in reply to your email, sent February 11, 2019, requesting dispensation to reschedule Branch 79's February meeting, if necessary, due to the possibility of inclement weather.

In response to your request, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 79 dispensation to reschedule its regular meeting for February 2019, at your discretion. Once you have settled on the date, please provide timely notice to the members.

I trust that the foregoing addresses your concerns.

**DAN STILES, INVERNESS, FL,
BRANCH 6013**

FEBRUARY 13, 2019 (7411)

This is in reply to your letter, dated January 31, 2019, requesting dispensation permitting Branch 6013 to conduct a special election for Branch President. According to your letter, you have resigned as President and two members are interested in succeeding you. The Branch has only five members.

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 trust that the foregoing addresses your concerns.

**VERONICA FLORES-OSBORNE,
WEST PALM BEACH, FL, BRANCH
1690**

FEBRUARY 15, 2019 (7399)

This is in reply to your letter, dated January 25, 2019, seeking guidance concerning Branch 1690's decision to defer the consideration and vote on

proposed amendments to its By-laws. Specifically you ask whether the Branch properly voted to table the vote until the next regular meeting.

The situation described in your letter does not appear to raise any issues under the NALC Constitution. 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."

Article 15 does not contain any language specifying which meetings Branches are obliged to consider By-law proposals submitted by member. 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 adapt reasonable rules governing the procedures for consideration and voting on proposed By-laws. Accordingly, the Branch would have discretion to postpone a previously scheduled vote.

Of course, the Branch would be required to re-notify the members. Your letter indicates that the Branch did provide such notice in its newsletter.

Finally, apart from Article 15 Branches must comply with any additional rules in their By-laws for enacting amendments. Your letter, however, does not indicate that the Branch 1690 By-laws contain any provisions which would have prevented the members' from adopting the motion to table.

I trust that the foregoing addresses your concerns.

**ARTHUR BAYARDO, JR., RESEDA,
CA, BRANCH 4006**

FEBRUARY 22, 2019 (7412)

This is in reply to your email, dated February 14, 2019, concerning alleged improper endorsement in the Branch

4006 newsletter of potential candidates in the upcoming Branch election.

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 allegations of campaign misconduct, 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 investigate and 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 appeal.

**PHILLIP W. CORNELL, BRICK, NJ,
BRANCH 5420**

FEBRUARY 22, 2019 (7413)

This is in reply to your letter, dated February 8, 2019, requesting guidance with respect to a proposal to have Branch 5420 provide monetary compensation to a member whose grievance was apparently mishandled by a former steward.

Please be advised that so far as the NALC Constitution is concerned the critical issue is whether the payment will be authorized by the membership. Article 12, Section 3 of the Constitution for the Government of Subordinate and Federal Branches expressly states that all Branch funds "shall be devoted to such uses as the Branch may determine; provided that no appropriation shall be made except when ordered by a majority vote of the members present and voting at a regular meeting." Accordingly, the Branch should definitely proceed with a motion and vote as suggested in your letter.

Apart from the foregoing, I would advise that you have an attorney draft a release of legal claims to be signed by the member.

I trust that the foregoing addresses your concerns.

DANA CULPEPPER, EAGLE PASS, TX

**TEXAS STATE ASSOCIATION OF
LETTER CARRIERS**

FEBRUARY 26, 2019 (7265)

This is a follow-up to my letter, dated November 28, 2018, on the subject of block voting at NALC State Association conventions. At the recent Region 10 Rap Session in Texas, I had several inquiries from Texas State officers and delegates regarding my letter. In particular, these officers and delegates expressed concern that my letter empowered individual state delegates to prevent delegates from casting block votes.

It is apparent that my letter has been misread. The confusion seems to stem from the difference between the "unit rule" and "block voting" in general.

When the unit rule is adopted, a single delegate may cast all the votes to which their Branch is entitled. However, as noted in my letter, even where a State Association decides to allow delegates the option of voting by the unit rule, the delegates of any given Branch cannot vote the unit rule unless its delegates agree unanimously to do so. Thus, a single delegate can block the Branch's use of the unit rule.

If the unit ruling is not in effect, either for a particular Branch or the Convention as a whole, block voting is still permissible. This means that those Branch delegates who wish to cast their votes as a group may do so, even if the Branch has not adopted the unit rule.

My letter did recognize that individual State Association delegates could object to block voting. However, if such an objection were to be made the Convention would decide the matter. The Convention is authorized to permit Branch delegates to vote as a group on a voluntary basis. Single delegates cannot prohibit such voting if it is permitted by the Convention.

I trust that the foregoing addresses the concerns expressed to me at the Rap Session. Please feel free to disseminate this letter.

**GREG RAMOS, BEVERLY HILLS,
CA, BRANCH 2293**

FEBRUARY 27, 2019 (7423)

This is in reply to your letter, dated

February 15, 2019, inquiring whether there is a "statute of limitations" for filing charges under Article 10 of the NALC Constitution.

The answer to your question is no. As Assistant Secretary-Treasurer Paul Barner correctly advised you, the NALC Constitution does not establish any time limitation on the filing of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches. However, as previous rulings have recognized, the members may take into account the timeliness of the charge as a relevant factor when they vote on the merits of the allegations.

I trust that the foregoing addresses your concerns.

**CAROLINE JONES, HIGH POINT,
NC, BRANCH 936**

MARCH 5, 2019 (7429)

This is in reply to your letter, which you emailed to my office on March 4, 2019, requesting dispensation permitting Branch 936 to reschedule its nominations and election of state association delegates. According to your letter, the Branch was unable to hold its regular nominations meeting due to Hurricane Michael.

Your request is certainly justified. Therefore, 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 current nomination and election of state 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.

**DEBBIE MYERS, ALBANY, NY,
BRANCH 959**

MARCH 6, 2019 (7426)

This is in reply to your letter, dated February 14, 2019, requesting dispensation permitting former member Timothy Schubert to rejoin the NALC as a re-

three member of Branch 959.

The information provided with your letter indicates that Brother Schubert did not execute a Form 1189 in a timely manner because he was preoccupied with his wife's critical illness. She has since passed away.

In light of the unique facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Brother Schubert must execute a Form 1189 and 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 his Form 1189, calculate the back dues, and make all necessary arrangements for payment.

I trust that the foregoing addresses your concerns. Please convey my sincere condolences to Brother Schubert for his loss.

BRIAN BUMP, NORTH HIGHLAND, CA, BRANCH 133

MARCH 6, 2019 (7430)

This is in reply to your email, sent March 1, 2019, inquiring whether, a member of Branch 133, has been disqualified from continuing to serve as a shop steward. According to your letter, Sister Gina Segura has accepted a detail to a non-bargaining unit position of Field Sales Representative.

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, non-bargaining unit positions 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 Form 1723 assignment order submitted with your email does not contain any in-

formation about the duties of the Field Sales Representative position.

To be sure, I find it highly unlikely that a sales representative will have supervisory authority over letter carriers. However, it will be your responsibility, as Branch President, to make the final determination as to whether the position in question carries supervisory authority. If it does not, then Sister Segura would not be disqualified from continuing to serve as a steward.

I trust that the foregoing addresses your concerns.

JOSEPH ABBATE, CONCORD, NH, BRANCH 72

MARCH 7, 2019 (7432)

This is in reply to your email, sent March 7, 2019, inquiring whether a member of Branch 72, who is presently serving as a 204b supervisor, may be excluded from a training session scheduled for this Sunday. According to your email, the Form 1723 for this member indicates that she will be in 204b status through April 12.

Given the circumstances, it would appear that this individual may be excluded from the training session. Under Article 2, Section 1(c) of the NALC Constitution, 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). Since the member will be in 204b status when the training takes place, excluding her will be consistent with the Constitution.

I trust that the foregoing addresses your concerns.

TONYA FLEMING, EUREKA, CA, BRANCH 348

MARCH 14, 2019 (7435)

This is in reply to your email, sent March 13, 2019, regarding the resignation of the Secretary of Branch 348. Apparently, she subsequently indicated

she was rescinding the resignation. You now ask whether you can deny her attempt to rescind the resignation and appoint a successor.

Please be advised that I cannot give a specific answer to your question, based on the limited information in your email. I can provide the following guidance.

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).

I trust that the foregoing addresses your concerns.

WILLIAM SMITH, HEMET, CA, BRANCH 2901

MARCH 27, 2019 (7456)

This is in reply to your letter, dated March 20, 2019, requesting dispensation permitting Branch 2901 to conduct its nomination of officers at its April meeting, notwithstanding that the resulting notice period will apparently be inconsistent with the Branch By-laws.

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. Section 6.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) provides that the notice of nominations must be sent out 10 days before the date nominations are held.

For future elections, I would recommend that the Branch amend its By-laws to reflect the notice requirements provided by the RGBEP.

I trust that the foregoing addresses your concerns.

MITCH HANSON, EAGLE PASS, TX

TEXAS STATE ASSOCIATION OF LETTER CARRIERS

MARCH 27, 2019 (7458)

This is in reply to your letter, dated March 11, 2019, concerning your appeal to the Texas State Association which challenges the decision of the TSALC President to terminate you as Legislative Liaison. Specifically, you ask for clarification of the procedures to be followed at the Convention, and, particularly, whether you are responsible for bringing copies of your appeal for distribution to the delegates.

As you recognize, the procedures for resolving internal State Association appeals are set forth in Article 13 of the Constitution of the Government of State Associations (CGSA). Article 13, Section 1 provides that appeals from decisions of a State Association President are to be taken "to the State Association in convention assembled." Article 13, Section 1 further provides that such appeal "must be taken at the Convention at which the subject appealed from is under consideration and before any other business is taken up for action." Accordingly, it is the responsibility of the State Association to ensure that your appeal is placed on the agenda of the Convention at an appropriate time.

However, there are no constitutional provisions which address the distribution of written material. Article 13 does not set forth any specific procedural requirements the Convention must follow when the appeal is heard. Accordingly, the matter is left largely to the discretion of the State Association. The overriding

criterion that should guide the State Association is fairness. All interested parties must be given a reasonable opportunity to present their arguments to the delegates so that they may make an informed decision. In addition, the State Association must comply with any relevant provisions of its By-laws.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of your appeal.

RICHARD HARPER, STATE COLLEGE, PA, BRANCH 1495

MARCH 27, 2019 (7459)

This is in reply to your letter, dated March 21, 2019, concerning the vote taken by Branch 1495 to suspend you for six months after finding you guilty of charges brought under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Specifically, you ask whether this suspension is presently in effect, insofar as you are appealing the Branch's decision to the National Committee on Appeals.

As previous rulings have recognized, the term of a suspension is not postponed during the pendency of an appeal. Rather, the terms and time period of a suspension are determined by the vote of the Branch.

Your letter also asks whether the suspension covers only service as Branch President or suspension from all membership activities. While I appreciate your concern, I must advise that it would be inappropriate for me to rule on this matter. I do not have the wording of the penalty adopted by the Branch before me, nor do I have any other evidence of the intent of the members. Even if I did, as National President it would not be proper for me to decide the scope of a Branch penalty. That is a matter which must be resolved by the Branch. The Vice President, who would now be temporarily acting as President, has the authority to rule on the scope of the suspension. His ruling would be subject to appeal to the members under Article 11 of the CGSFB.

Thus, it is the responsibility of the Branch in the first instance to resolve any dispute as to the terms and/or tim-

ing of the suspension. The Branch's determination, of course, would be subject to appeal.

I trust that the foregoing addresses your concerns.

THERESA HARRISON, WINSTON SALEM, NC, BRANCH 461

APRIL 5, 2019 (7464)

Your letter to NALC Assistant Secretary-Treasurer Paul Barner, dated March 28, 2019, has been referred to me for reply, insofar as your letter raises issues arising under the NALC Constitution. Specifically, you ask whether Brother Wayne Green has properly assumed the office of President of Branch 461.

The answer to your question is governed by Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). This provision 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.

It is my understanding that when Brother Lester vacated the office of President to serve in the Region 9 office, Vice President David Wade assumed the presidency of the Branch. However, Brother Wade did not want to serve as President. He appointed Brother Wayne Green as Vice President and then resigned. Brother Green, accordingly, is now President of the Branch. This series of events is entirely consistent with the Constitution.

The Constitution does not contain any provisions requiring that appointments to fill vacant offices be memorialized in any particular manner. Thus, the absence of any reference in the Branch's meeting minutes to the appointment of Brother Green as Vice President does not impact the validity of the appointment or his subsequent succession to the presidency.

In any event, the communications issues described in your letter would not

affect Brother Green's present authority, as Branch President, to act as the Branch's Formal Step A representative in the grievance procedure.

I trust that the foregoing addresses your concerns.

CRAIG SCHADEWALD, NEW BERN, NC

NORTH CAROLINA STATE ASSOCIATION OF LETTER CARRIERS

APRIL 9, 2019 (7465)

This is in reply to your email, sent March 30, 2019, inquiring whether a member who is not present at the upcoming North Carolina State Association convention may be nominated for a state association office.

The answer to this question is yes. Article 6, Section 1 of the Constitution of the Government of State Associations specifically states that "any regular branch member in good standing shall be eligible for any office of this Association." As previous rulings interpreting this provision have consistently recognized, it is not necessary for a member to be elected as a delegate from his/her Branch in order to be nominated as an officer. The rulings have also noted that an otherwise eligible member may be nominated even if he/she is not present at the convention.

I trust that the foregoing addresses your concerns.

JEANNINE GASPER, WILLIAMSBURG, VA, BRANCH 609

APRIL 15, 2019 (7472)

This is in reply to your email, sent April 8, 2019, in which you ask several questions pertaining to the appeal process provided by Article 11 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB).

At the outset, it would be inappropriate for me to comment on any of the particulars of the situation described in your email. I can provide the following guidance.

Article 11, Section 1 of the CGSFB, states that "any member considering that an injustice has been done him/her by a decision of the Branch" may appeal to the NALC Committee on Appeals. In

cases involving charges under Article 10 of the CGSFB, if the Branch votes to reject the charges, the charging party or parties may appeal that decision to the Committee.

The procedures for submitting an appeal to the Committee are specified in Article 11, Section 2. The appeal must be in writing and filed with the Branch Recording Secretary "within twenty days from the date of the Branch meeting at which the decision to be appealed from was made." However, the Branch President may not refuse to hear or process an appeal because of alleged untimeliness. An appeal to the Committee on Appeals must be processed even if the Branch considers the appeal to have been submitted outside the twenty day period.

The Branch can raise the timeliness issue in its response to the appeal to be filed with the Committee. Following its review of the record and the arguments of the parties, the Committee may dismiss the appeal as untimely. The Branch has no prior authority to decline to transmit the appeal to the Committee.

Finally, Article 11, Section 2 provides that the Recording Secretary must read the appeal to the Branch "at its next regular meeting following the receipt of the appeal." The Branch then has twenty days to prepare its reply and submit the appeal and the reply to the Committee on Appeals. Thus, the twenty day period for preparing the Branch's response begins to run after the meeting at which the appeal has been read.

There may be cases where a delay in responding to an appeal is justified because of inquiries to the National President. It is up to the Committee on Appeals to address the significance of any delay in resolving the appeal.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits or timeliness of any appeal.

JOSEPH MICHL, CUMBERLAND, RI, BRANCH 2158

APRIL 15, 2019 (7473)

This is in reply to your email, sent April 13, 2019, requesting dispensation permitting Branch 2158 to conduct

a special election of delegates to the 2019 Rhode Island State Association Convention. According to your letter, the Branch did not previously nominate and elect delegates based on information indicating that the Rhode Island State Association would not be able to hold a convention in 2019. Since then, the branches in Rhode Island have made arrangements to convene a convention on May 19.

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. This dispensation also authorizes the Branch to conduct nominations and an election, if necessary, at the same meeting.

Please understand that this dispensation applies only to the nomination and election of delegates to the 2019 Rhode Island State 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.

I trust that the foregoing addresses your concerns.

LAURA DENEVAN, LEWISTON, ID, BRANCH 1192

APRIL 16, 2019 (7474)

This is in reply to your email, sent April 14, 2019, in which you ask that I rule on the eligibility of Brother Roy Bradley to serve as a delegate from Branch 1192 to the upcoming Idaho State Convention. Your email indicates that Branch President Mike Allen has determined that Brother Bradley missed the deadline for registering as a delegate.

While I appreciate your concerns, I must advise that it would be entirely inappropriate for me to intervene in this matter by issuing a ruling. Under Article 11, Section 1 of the NALC Constitution for the Government of Subordinate and Federal Branches, a member may appeal a decision of the Branch President to the next meeting of the Branch. Any member dissatisfied with the Branch's decision may appeal to the State As-

sociation's Committee on Credentials, in accordance with Section 21.5 of the NALC Regulations Governing Branch Election Procedures.

I trust that the foregoing addresses your concerns, at least in part. This letter should not be read to express any view as to the merits of any appeal.

**DAVID MCGUIRE, PHOENIX, AZ,
BRANCH 576**

APRIL 18, 2019 (7477)

This is in reply to your email, sent April 17, 2019, in which you ask several questions concerning the timing of a rerun election to be conducted in Branch 576.

At the outset, while I appreciate your concerns, it would be inappropriate for me to address the specific situation in Branch 576. I can provide the following guidance.

First, Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP) governs election appeals. Section 21 does not contain any provisions specifying a time frame for conducting rerun elections following a successful appeal. Previous rulings have advised that rerun elections should be conducted as expeditiously as possible.

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 rerun 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 rerun 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 rerun 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.

It would certainly be appropriate to discuss the details for conducting the rerun election at tonight's Branch meeting. However, the Election Committee remains ultimately responsible for administering the rerun election.

I trust that the foregoing addresses your concerns.

**RACHEL CLERMONT, WALPOLE,
NH, BRANCH 72**

APRIL 19, 2019 (7373)

This is in reply to your letter, received by my office on January 22, 2019, requesting reinstatement of your membership in NALC Branch 72 as a retiree.

At my request, Secretary-Treasurer Nicole Rhine conducted an investigation of your situation. It now appears that you mistakenly terminated your membership in the NALC based on incorrect and misleading advice provided to you by the APWU.

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 retiree dues that accrued during the period following your disability retirement. By copy of this letter I am instructing Sister Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment and reinstatement of your membership.

I trust that the foregoing addresses your concerns.

**JIM LANGLOIS, PAWTUCKET, RI,
BRANCH 55**

APRIL 22, 2019 (7483)

This is in reply to your letter, dated April 11, 2019, requesting dispensation permitting Branch 55 to conduct a special election of delegates to the 2019 Rhode Island State Association Convention. According to your letter, the Branch inadvertently nominated and elected delegates to the National Convention only.

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. This dispensation also authorizes the Branch to conduct nominations and an election, if necessary, at the same meeting.

Please understand that this dispensation applies only to the nomination and election of delegates to the 2019 Rhode Island State 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.

I trust that the foregoing addresses your concerns.

**DAVID MCGUIRE, PHOENIX, AZ,
BRANCH 576**

APRIL 23, 2019 (7477)

This is in reply to your email, sent April 19, 2019, concerning Branch President Dufek's appeal of Branch 576's decision to conduct a rerun election to the National Committee on Appeals.

Please be advised that such an appeal is specifically authorized by Section 21.4 of the NALC Regulations Governing Branch Election Procedures (RGBEP), which states that "[a]ny aggrieved member dissatisfied with the decision of the branch meeting [with respect to an election appeal] may appeal to the NALC National Committee on Appeals."

Section 21.43 of the RGBEP requires the Branch to submit to the National Committee a "written reply" to the appeal. As previous rulings have recognized, Section 21.43 does not specify who is to prepare the Branch's reply. 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 an officer or member who supports the Branch's decision.

Any officer or member who supports the Branch decision to conduct the re-

run election 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.

If you are not personally assigned to prepare the Branch's reply, you may nonetheless prepare a written statement which may be included in the Branch's submission to the Committee.

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

**ZACHARY STROUD, EVANSVILLE,
IN, BRANCH 377**

APRIL 23, 2019 (7482)

This is in reply to your letter to me, which you emailed to National Business Agent Troy Clark on April 20, 2019. Brother Clark forwarded your letter to me on April 21.

Your letter asks various questions pertaining to charges that have been filed by the President of Branch 377 and another officer against each other. As Vice President, you are now responsible for implementing the procedures set forth in Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

The following discussion addresses your various questions in the order presented.

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

You also ask what you should do if you cannot find three disinterested members of the Branch who are willing to serve on an investigating committee. Normally, the investigating committee is to consist solely of members of the Branch. In those rare situations where this is not possible, the Branch can submit to the National President a request for the appointment of a committee of members of other Branches. When I have granted such requests, I usually authorize the National Business Agent to appoint the committee.

Your second question is whether there is a time limit on the filing of charges. The answer to this question is no. The NALC Constitution does not establish any time limitation on the filing of charges under Article 10. However, as previous rulings have recognized, the members may take into account the timeliness of the charge as a relevant factor when they vote on the merits of the allegations.

The third issue concerns whether one of the parties properly distributed copies of his charges to other members. There is no provision in the Constitution which prohibits anyone from distributing copies of the charges to interested members. Accordingly, the very limited information set forth in your letter does not demonstrate that there has been a violation of the Constitution. At the same time, any member who is the subject of charges is entitled to a fair hearing. If the charged party believes that his right to a fair hearing was compromised by distribution of the charges, he will be entitled to present that argument to the investigating committee and to the Branch. That argument could also be raised as an issue in any appeal to the National Committee on Appeals following the Branch's decision. I express no view as to whether the argument would have any merit.

With regard to your fourth question, 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.

Finally, your letter raises issues pertaining to the procedure for voting on potential penalties, if any of the charges are sustained. Please be advised that Article 10, Section 4 of the CGSFB does require a two thirds vote for questions of expulsion or removal from office, and for the imposition of a fine. As previous rulings have recognized, this requirement does not refer to two thirds of the entire membership. Rather the requirement is that those specified punishments must be supported by two thirds of the votes cast by the members present and voting at the Branch meeting at which the charges are considered.

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.

I trust that the foregoing 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.

**PHILLIP DUFEK, PHOENIX, AZ,
BRANCH 576**

APRIL 25, 2019 (7485)

This is in reply to your letter, dated April 18, 2019, concerning the conduct of a rerun election of officers in Branch 576. The rerun was ordered by the Branch when it voted to sustain an election appeal. Your letter seeks guidance with respect to two issues, which I address below.

1. Election Committee. As previous rulings have recognized, the President of the Branch is free to disband the election committee and to appoint a new committee when a rerun is held, or the President may leave the previously ap-

pointed committee in place. However, the Branch President does not have the authority to appoint a member of another Branch to serve on the committee. Any involvement by members from outside the Branch would have to be authorized by dispensation from the National President.

2. Candidate withdrawal. You also ask me to address the consequences of a decision by a nominee for an officer position to have his name removed from the ballot in the rerun election. 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 rerun election for Branch officers.

I trust that the foregoing addresses your concerns.

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

MAY 1, 2019 (7488)

This is in reply to your email, sent April 25, 2019, inquiring whether you may be permitted to accept nomination for President of Branch 2932, notwithstanding the fact that one month ago you accepted and are now serving as a 204b supervisor. You suggest that there is a real risk that no other members will accept nomination for any office in the Branch.

While I appreciate that there may be legitimate reasons for your proposal, I must advise that the answer to your question is no. Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches expressly provides that any member who holds a supervisory position in the Postal Service "whether one (1) day or fraction thereof, either detailed, acting, probationary or permanently" is ineligible to hold any office or position in the Branch for a period of two years following the termination of supervisory status.

There are no exemptions from this rule. I regret, therefore, that I cannot provide a favorable reply.

**JIM BOKISA, PARMA, OH, BRANCH
40**

MAY 3, 2019 (7493)

This is in reply to your letter, received by my office on April 29, 2019, concerning charges you attempted to file in Branch 40 against Branch 196 President David Lozano. The charges stemmed from Brother Lozano's role as a member of the Dispute Resolution Team (DRT) that resolved a grievance filed on your behalf.

While I appreciate that you are not satisfied with the DRT's decision, I must advise that there is no basis in the NALC Constitution for filing internal union charges against Brother Lozano. As Branch 40 President Barnes correctly advised you, the relevant constitutional provision, Article 10 of the Constitution for the Government of Subordinate and Federal Branches, does not authorize Branches to entertain charges against officers or members of other Branches. Additionally, there are no procedures in the Constitution for charging DRT members, based on their decisions.

**ZACHARY STROUD, EVANSVILLE,
IN, BRANCH 377**

MAY 9, 2019 (7494)

This is in reply to your letter, which was emailed to me by NBA Troy Clark, concerning the appointment of a committee to investigate charges against the President of Branch 377. According to your letter, you have been unable to appoint a committee of three members who are disinterested in the charges.

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 Brother Clark, or a representative from his office whom he may designate, to appoint the investigating committee. If necessary, Brother Clark, or his designee, may contact Branches located near Branch 377 and arrange for the appointment of a committee to investigate the charges con-

sisting of three members from outside Branch 377.

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

**CRAIG NERO & JOSEPH ROLLERI,
FRESH MEADOW, NY, BRANCH 294**

MAY 16, 2019 (7499)

This is in reply to your letter, dated May 2, 2019, concerning charges you have submitted against the officers of Branch 294. According to your letter, the Branch has refused to process the charges. You now request guidance as to the submission of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

At the outset, it would be entirely inappropriate for me to comment on your specific situation, particularly since I only have your side of the story before me. I note that the Executive Board letter and meeting minutes referenced in your letter were omitted from the material you sent. Nonetheless, I can offer the following general guidance to you and the Branch.

Article 10 of the CGSFB provides the procedures that must be followed whenever a Branch member files charges. Article 10, Section 1 allows charges based on claims that a member has violated the Constitution or Branch By laws; or that an officer has failed or neglected to discharge the duties of his/her office, or committed gross misconduct. Article 10, Section 2 provides that charges be filed with the Branch. The charges must be in writing and signed by the charging member. There is no requirement that the charges be filed at a Branch meeting.

Article 10, Section 2 also requires that copies of the charges be served on the charged parties "under seal or letterhead of the Branch." There is no requirement that the charges themselves be under seal on Branch letterhead. The requirement of service of copies under seal or letterhead is an obligation imposed on the Branch after the charges have been submitted to the Branch by the charging member.

The "seal" is the official Branch insignia which is to be affixed to, or im-

pressed 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.

There is no one person responsible for serving charges upon the charged party. The requirement of service may be discharged by any appropriate representative of the Branch.

Finally, Article 10, Section 2 states that the “charges shall be read by the recording secretary at the first regular meeting after service on the member or officer.” (emphasis added). Therefore, charges should not be read until they have been properly served.

I trust that the foregoing addresses your concerns.

**TONYA FLEMING, EUREKA, CA,
BRANCH 348**

MAY 17, 2019 (7500)

This is in reply to your email, sent May 8, 2019, concerning the re-run election for President to be conducted by Branch 348. Specifically, you ask when and how a new President should be installed if a different candidate wins the re-run election.

The relevant constitutional provision, Article 5, Section 6 of the Constitution for the Government of Subordinate and Federal Branches, requires that an installation of Branch officers be conducted “at the first or second meeting of the Branch following the election.” The installation starts the new term of office for elected officers.

However, this language refers to the regular election. There is no language requiring a formal installation ceremony when individuals are elected in a re-run election, which occurs during a current term of office. While the Branch may conduct an installation and swearing-in if it so chooses, such a ceremony is not constitutionally required. In any event, the new President should take office as expeditiously as possible. He or she may be sworn in by any current or past officer of the Branch.

As to your second question, there is no constitutional time frame governing the NALC Committee on Appeals’ processing of cases. The Committee makes every effort to resolve appeals as quickly as it can.

**DAVID GROSSKOPF, JR., CHEEK-
TOWAGA, NY, BRANCH 3**

MAY 23, 2019 (7501)

This is in reply to your email, sent May 9, 2019, inquiring as to the membership rights of a retiree member of Branch 3. According to your email, this individual occupied a higher-level Safety Specialist position at the time of his retirement.

The answer to your question turns on whether the Safety Specialist position in question was a “supervisory position.” A retired member who was a supervisor when he/she retired is not a regular member as defined in Article 2, Section 1(a) of the NALC Constitution: “Membership shall be ... retirees from that Service who were regular members of the NALC when they retired...” (emphasis added). Regular members, as defined, are non-supervisory employees of the Service.

However, higher level assignments are not necessarily supervisory for purposes of the Constitution. Generally speaking, a position is considered supervisory if the person holding that position would have the authority to discipline bargaining unit employees or otherwise direct them in the performance of their duties.

If the Safety Specialist position did not entail such supervisory authority, then a member retiring from such position would retain full membership rights, including the right to attend and speak at meetings, vote at meetings and in elections, and attend conventions.

If the Safety Specialist position was supervisory, then the member’s rights would be limited to those rights that may be exercised by supervisory members. Under Article 2, Section 1(c) of the NALC Constitution such individuals may not exercise membership rights or otherwise participate in official Branch activities 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.

I trust that the foregoing addresses your concerns.

**JOSH FRANKHOUSER, LEWISTON,
PA, BRANCH 1495**

MAY 29, 2019 (7512)

This is in reply to your recent letter, received in my office on May 23, 2019, concerning the disposition of charges against Branch 1495 President Harper and other issues in the Branch.

While I appreciate that you and other members have substantial concerns, I must advise that it would be inappropriate for me to comment on the specific factual issues raised in your letter. I have no first-hand knowledge of these matters, and I only have your side of the story before me. I can offer the following general comments.

The process for handling charges against Branch officers is mandated by the NALC Constitution. Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires that the charges be investigated by a committee of three members and that the committee report its findings to the Branch at its next meeting. Article 10, Section 3 further provides that the members in attendance must vote on the initial question whether the facts reported sustain the charge. If they vote to sustain any charges, the members must then vote on the appropriate penalty, if any. It is my understanding that the members of Branch 1495 made a good faith effort to fulfill these responsibilities.

However, Article 11, Section 1 of the CGSFB provides that “any member considering that an injustice has been done him/her by a decision of the Branch, may appeal in writing to the Committee on Appeals of the National Association.” Thus, a charged party who has been found guilty has a constitutional right to appeal. So too, when charges are rejected, the member who brought the charges may appeal.

The composition of the National Committee on Appeals is also mandated by the Constitution. Article 11, Section 4(a) of the National Constitution provides that “the Vice President, Secretary-Trea-

surer, and Chairperson of the Board of Trustees shall constitute the Committee on Appeals.” At present, those officers consist of Lew Drass, Nicole Rhine, and Larry Brown. These are very experienced officers who base their decisions solely on their assessment of how the language of the Constitution applies to the facts presented in the appeal file.

In sum, while you and others may be disappointed in the outcome, this case was handled precisely in accordance with our Constitution.

I trust that the foregoing addresses your concerns, at least in part. Thank you for writing.

**DEWAYNE TAYLOR, SIKESTON,
MO, BRANCH 343**

MAY 30, 2019 (7506)

This is in further reply to your letter, received by my office on May 13, 2019, in which you suggested that I consider the transfer of the Sikeston, Missouri Post Office from the jurisdiction of Branch 343, St. Louis to Branch 1015, Cape Girardeau. As you will recall, I referred your proposal to National Business Agent Mike Birkett for further investigation. Having now received his report, I am denying the proposed transfer.

In considering whether to direct the transfer of a post office from one Branch to another, I give significant weight to the preferences of the letter carriers in that office and the position of the two Branches involved. Geographic proximity is also an important factor.

In this case, Branch 343 has expressed its preference to retain jurisdiction over Sikeston, and there is no indication of a clear consensus among the Sikeston letter carriers to terminate their membership in Branch 343. Accordingly, there is no basis for the proposed transfer at this time.

Please feel free to contact Brother Birkett to discuss any additional issues or concerns you may have regarding this matter.

**JOSEPH SMITH, EDEN, NC,
BRANCH 3712**

MAY 30, 2019 (7517)

This is in reply to your letter, dated

May 22, 2019, requesting dispensation permitting Branch 3712 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 there are no other officers or 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 3712 may conduct a special election of President and Vice President for the remainder of the current terms of office.

The Branch should conduct the election as expeditiously as possible. The Branch may conduct nominations and the election at its next regular meeting or at a special meeting convened for that purpose. The Branch should provide a proper notice of nominations and election to the members at least 15 days before the meeting. By copy of this letter, I am requesting that NBA Lynne Pendleton provide whatever assistance the Branch may require in conducting the special election.

I trust that the foregoing addresses your concerns. Please feel free to distribute copies of this letter to the other members of the Branch.

**ANITA GUZIK, LOS ANGELES, CA,
BRANCH 24**

JUNE 7, 2019 (7522)

This is in reply to your letter, dated June 5, 2019, concerning pending charges against a retired member of Branch 24. Specifically, you ask whether the charged party may bring a non-member to the Branch meeting at which the charges will be voted on, either to defend him or to act as an observer.

Article 10 does not contain any provisions authorizing outside persons to assist either the charging or charged party. Article 10, Section 3 provides that “the charged party is entitled to defend himself/herself before the Branch immediately before the vote is taken.” Accordingly, while the Branch may allow the

charged party to have a representative to assist him, the Branch is not required to do so and may deny the request.

I trust that the foregoing addresses your concerns.

**BRYAN RUBNER, CEDAR RAPIDS,
IA, BRANCH 373**

JUNE 9, 2019 (7547)

This is in reply to your letter, dated June 26, 2019, requesting a ruling as to whether Brother Jayson Wallace has been disqualified from continuing to serve as a steward in Branch 373. According to your letter Brother Wallace has twice requested to be considered for a 204b position in other offices. Your letter indicates that he 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. An oral or written expression 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 Brother Wallace.

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. Normally, the Branch should investigate and, if necessary, discuss the situation with management to clarify whether the member’s communication with management was considered an application for a supervisory position. If the Branch concludes that in the present case Brother Wallace’s communications with manage-

ment were tantamount to an application for a supervisory position, then he will no longer be eligible to be a steward.

I trust that the foregoing addresses your concerns.

TROY CLARK, STERLING HEIGHTS, MI, REGION 6

JUNE 19, 2019 (7533)

This is in reply to your email, sent June 17, 2019, concerning charges that are pending against officers of Branch 377. Your email, sent on behalf of the Branch, requests dispensation permitting the investigating committee, which you appointed, to report to the Branch at its meeting on July 17. According to your email, this would be the second meeting after the meeting at which the charges were read. The Branch apparently approved a motion for a continuance at its last meeting.

The facts set forth in your email do not indicate that dispensation from me is necessary. Article 10, Section 1 of the Constitution for the Government of Subordinate and Federal Branches does provide that the vote on charges is to take place at "the next regular Branch meeting after which said charges were read to the Branch." However, Article 10, Section 1 also provides that "[t]he vote . . . may be continued once, by motion, to the following regular Branch meeting." This is what seems to have occurred here.

In any event, the investigating committee which you appointed may report to Branch 377 at the meeting on July 17, and the members may vote on the charges at that meeting.

I trust that the foregoing addresses your concerns.

MICHAEL WILLADSEN, EAST HARTFORD, CT, BRANCH 86

JUNE 25, 2019 (7532)

This is in reply to your letter, dated June 14, 2019, requesting that I grant Branch 86 permission to initiate legal action against the Postal Service in accordance with Article 17, Section 3 of the NALC Constitution. The proposed lawsuit would seek injunctive relief in connection with the "Caser-Streeter"

program which is part of the Postal Service's case consolidation initiative.

At the outset, I appreciate Branch 86's willingness to engage in such an effort at its own expense. Nonetheless, I am not inclined to grant your request at this time. We are presently gathering evidence on the impact of the consolidated casing initiative on letter carriers in the initial test site where the initiative has been implemented. If we determine that the evidence can support legal action, we will initiate a lawsuit at the national level.

NALC has filed a national level grievance on the case consolidation initiative, which is presently scheduled for arbitration in December. We have been meeting with USPS representatives in an effort to halt the initiative through a negotiated settlement of the grievance. In the meantime, eight NALC observers from different geographic areas have been observing this initiative in the initial test site in Annandale, Virginia on a daily basis. These eight individuals are developing resources to assist the branches that will be involved in the sites USPS has identified for expansion of the initiative in future phases. They are in the process of communicating information to these branches.

In addition, we are encouraging branches to initiate local grievances over specific violations of the National Agreement or their local memorandum of understanding which may be caused by the case consolidation initiative (e.g., grievances concerning Article 8, out of schedule premium pay, bidding, Form 3996 requests, clearing accountable mail, and similar matters).

We will continue to advise branches of developments in this ongoing dispute.

ALTON BRANSON, REGION 13

JULY 3, 2019 (7534)

This is in reply to your memo, dated June 17, 2019, requesting dispensation permitting Branch 4276 to conduct a special election of officers. According to your memo, the incumbent President, Vice President, Secretary-Treasurer, and shop steward have resigned, so that the Branch has no officers.

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 4276 shall conduct a special election of officers for the remainder of the current terms of office.

In addition, I am authorizing you to provide whatever oversight and assistance the Branch may require to conduct the election properly.

Your memo also indicates that the election provisions of the Branch By-laws may not be consistent with NALC Regulations Governing Branch Election Procedures. After the election, please assist the Branch in enacting whatever amendments to the By-laws may be required to bring the Branch's election procedures into conformity with the NALC election regulations.

I trust that the foregoing addresses your concerns.

BOB HENNING, JACKSONVILLE, FL, BRANCH 53

JULY 3, 2019 (7545)

This is in reply to your letter, dated July 1, 2019, requesting dispensation permitting you to be named an unpaid delegate from Branch 53 to the 2019 Florida State Convention. According to your letter, you were not nominated along with the other delegates at the Branch's nominations meeting in November because the member who was supposed to nominate you did not come to the meeting.

Unfortunately, the Constitution does not permit me to simply appoint you to serve as a delegate. The NALC Constitution and Regulations Governing Branch Election Procedures requires 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 only 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 exten-

sion to apply solely to you. Accordingly, the Branch may submit to me a request for dispensation to extend the deadline for nominations for delegates. 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.

I trust that the foregoing, at least in part, addresses your concern.

**DIANA STOCKWELL, BAYSIDE, CA,
BRANCH 348**

JULY 11, 2019 (7539)

This is in reply to your letter, dated June 18, 2019, concerning an apparent dispute between the Branch 348 Election Committee and former Branch President Tonya Fleming. According to your letter, Sister Fleming has refused to return her copy of the Branch voting member mailing list. This list had been provided to her and her opponent in the recent re-run election for Branch President. Your letter requests advice as to steps the Branch may take to recover the list.

At the outset, I cannot make any ruling on this matter as I only have your side of the story before me. I can advise that, generally speaking, members are not entitled to retain copies of Branch membership lists.

I would hope that upon receipt of this letter Sister Fleming will cooperate and that any further action would be unnecessary. In the past, we have recommended a number of steps that the Branch can consider when former officers refuse to return Branch records. For example, charges may be filed against the member in question under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Such charges could lead to the imposition of penalties. The enforcement of any penalty could be conditioned on the return of the records or other property at issue.

If you require additional advice, I suggest that you contact your National Busi-

ness Agent Bryant Almario.

I trust that the foregoing addresses your concerns.

**BYRON SHELTON, ORLANDO, FL,
BRANCH 1091**

JULY 11, 2019 (7548)

This is in reply to your letter, dated July 1, 2019, concerning Branch 1091's inadvertent failure to register Branch President Rick Myers as a delegate to 2019 Convention of the Florida State Association of Letter Carriers. According to your letter, Brother Myers was included in the Branch's original list of delegates sent to the FSALC Treasurer in December 2018, but was left off the final registration list. The registration deadline provided by the FSALC By-laws has now passed.

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 to the Florida State Association allowing it to waive its registration deadline so as to permit Brother Myers to register as a delegate out of time.

Please note that by copy of this letter I am advising FSALC President Friedman that he is authorized to allow Brother Myers to register, notwithstanding the expiration of the deadline provided by the FSALC By-laws.

I trust that the foregoing addresses your concerns.

**DARLA BULLIS, PHOENIX, AZ,
BRANCH 576**

JULY 12, 2019 (7549)

Your email to Assistant Secretary-Treasurer Paul Barner, sent July 11, 2019, has been referred to me for reply insofar as you have raised issues arising under the NALC Constitution. In particular, your email enumerates procedural questions pertaining to an upcoming Branch meeting at which charges against the President and Vice President of the Branch will be considered. Your email indicates that some of these questions have been resolved through discussion with Brother Barner and Secretary-Treasurer Nicole Rhine. The following discussion addresses those

questions which remain open.

Question 7. The Constitution does require that the Branch conduct separate votes on the charges against the President and Vice President. Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) specifically states that "If the Branch decides that the facts sustain the charge, then the Branch shall entertain a motion to fix the penalty, if any be required." Normally, such a vote would be conducted immediately after the vote on the charge. Accordingly, if the Branch sustains the charges against one of the two charged officers, it should vote on the question of penalty for that officer before considering the charges against the second officer.

Question 9. As stated in Article 10, Section 3, the role of the investigating committee at the meeting is to "present to the Branch a written report of the facts elicited, and immediately thereafter disband and be eligible to vote." It is not the committee's responsibility to discuss potential penalties if the Branch sustains the charge. If the members subsequently vote to sustain the charge, the chairperson may advise the members of the penalties that are authorized by Article 10, Section 4 of the CGSFB before entertaining any motions.

Questions 10 and 11. You ask how the Branch should consider lesser penalties under Article 10, Section 4 of the CGSFB if the charge is sustained but, during the penalty phase, less than two-thirds of the members present at the meeting vote in favor of removal from office. Please be advised that Article 10, Section 4 explicitly requires that "a fine and the amount thereof must be approved by a two-thirds secret ballot vote." However, other lesser penalties, such as suspension or reprimand, may be adopted by a simple majority vote. A secret ballot would not be required.

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.

However, 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.

Accordingly, even if the members decide by their vote that the facts sustain the charge, it would not be necessary to conduct continuous votes until a penalty is imposed. If no motion is made from the floor, the chair would not be required to call for a vote on the penalties set forth in Article 10, Section 4. The chair could also entertain a motion not to impose a penalty.

The Constitution does not require that a committee be appointed to count votes on the penalty questions. However, the Branch is free to do so if it is determined that a committee will facilitate the process. This could be the members of the fact-finding committee.

Question 12. If a penalty is approved by the members, it would go into effect immediately. The imposition of penalty is not delayed pending exhaustion of the charged party’s appeal rights.

Finally, I agree with your suggestion that outside assistance in doing so would be appropriate. Accordingly, by copy of this letter, I am directing National Business Agent Dan Versluis to designate a representative from his office or an experienced officer from a nearby Branch, to attend the July 18 meeting of Branch 576 and to assist you in presiding over that portion of the meeting which addresses the charges.

I trust that the foregoing addresses your concerns.

**DARLA BULLIS, PHOENIX, AZ,
BRANCH 576**

JULY 17, 2019 (7549)

This is in reply to your two emails, sent July 15 and 16, 2019, in which you raise additional questions pertaining to the upcoming meeting of Branch 576 at which charges against the President

and Vice President will be considered. I am also responding to Branch President Dufek’s July 16 letter, which was emailed to me yesterday.

In the discussion below, I will address those additional questions which were not answered in my letter of July 12. The answers below correspond to the numbered questions in your July 15 email.

1. The issue of what information can be submitted in support of the charge should have been addressed by the investigating committee. Generally speaking, any evidence relevant to the charge may be submitted to the committee.

2. Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly states that “the charged party is entitled to defend himself/herself before the Branch immediately before the vote is taken.” There is no provision in the Constitution which requires the Branch to give the charging party an opportunity to speak at the branch meeting at which the charges are considered. The Branch may allow the charging party to address the meeting, but it is not required to do so.

3. There are no provisions in the Constitution requiring the Branch to seal the room. The Branch has complete discretion to decide whether to do so and when.

4. The order of events specified in the Constitution is as follows. Article 10, Section 3 of the CGSFB expressly provides that the investigating committee must present its report to the Branch and that the charged party “is entitled to defend himself/herself before the Branch immediately before the vote is taken.” Article 10, Section 3 does not contain any language providing for debate on the charges. Previous rulings have consistently held that such debate is not constitutionally required. The Branch may decide to allow such debate, based on such considerations as the By-laws, past practice, and the wishes of the membership. In any event, whether or not debate is permitted, the next order of business specified in Article 10, Section 3 is the Branch vote on “the issue of whether or not the facts as found by the committee sustain the charge.”

Questions 5 and 5a are answered by my previous letter.

6. The chair of the meeting may appoint a teller.

7. There is no requirement to consider penalties in the order stated in Article 10, Section 4 of the CGSFB.

In response to your last question in the second email, if the President is removed from office he will no longer have the authority to make appointments. As I stated in my previous letter, if a penalty is approved by the members, it would go into effect immediately. The imposition of penalty is not delayed pending exhaustion of the charged party’s appeal rights.

As provided by Article 6, Section 2 of the CGSFB, the Vice President would assume the presidency. If both are removed, the question of who would succeed would depend on the Branch By-laws. Article 4, Section 2 of the CGSFB authorizes Branches to make provision in their by-laws for succession to vacant Branch offices. If there are no such provisions in the Branch By-laws, I would be prepared to grant the Branch dispensation to conduct a special election. In the interim, the remaining officers would be responsible for running the Branch on a temporary basis until a new President and Vice President are elected.

I trust that the foregoing addresses your concerns. We appreciate your diligence in preparing for such an important meeting.

**JOHN MONTA, GREENVILLE, SC,
BRANCH 439**

JULY 17, 2019 (7550)

This is in reply to your letter, dated July 2, 2019, requesting clarification of the process by which NALC Branches may merge.

At the outset, you are entirely correct that the merger of two functioning Branches is a voluntary procedure. As set forth in Article 2, Section 3 of the NALC Constitution both Branches must vote to approve a proposed merger agreement setting forth the details of the merger. When both Branches have voted to approve the merger, an application signed by the President and Secretary of each Branch must then be

submitted to the President of the NALC for approval.

Apart from the merger process, there are separate procedures which may result in the transfer of certain members to another Branch. For example, on occasion I have received reports that a Branch has ceased to function as an NALC Branch and is not capable of fully representing its members. Typically, in such situations there are no officers or stewards and there have been no meetings for an extended period of time. In such circumstances, I have declared the non-functioning Branches defunct and transferred their members to another functioning Branch.

In addition, as National President, I have at times authorized the reassignment of small post offices to more suitable Branches in order to foster greater participation by members and more effective representation. Usually the reason is that the particular office is geographically distant from its current Branch and is closer to another Branch. However, I have only authorized such transfers when both Branches and the affected members have agreed to it.

I trust that the foregoing addresses your concerns. Thank you for your kind expression of appreciation.

**PHILLIP DUFEK, PHOENIX, AZ,
BRANCH 576**

JULY 17, 2019 (7551)

This is in reply to your letter, dated June 24, 2019 (received by my office on July 9), requesting a ruling as to whether a member has the right to a copy of an election appeal that was submitted to and decided by the National Committee on Appeals.

Please be advised that neither the NALC Constitution nor the NALC Regulations Governing Branch Election Procedures contain any provisions which give individual members a right to their own copy of an election appeal submitted by another member. The Branch has discretion to permit the member to review the appeal and to determine the conditions under which it will occur.

I trust that the foregoing addresses your concerns.

**DERRICK JONES, TALLAHASSEE,
FL, BRANCH 1172**

JULY 25, 2019 (7563)

This is in reply to your email, sent July 23, 2019, concerning Branch 1172's failure to register its delegates to the 2019 Convention of the Florida State Association of Letter Carriers. According to your email, the registration information was mailed to the wrong address which prevented the Branch from registering its delegates in a timely manner. The registration deadline provided by the FSALC By-laws has now passed.

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 to the Florida State Association allowing it to waive its registration deadline so as to permit the Branch 1172 delegates to register out of time.

Please note that by copy of this letter I am advising FSALC President Friedman that he is authorized to allow Branch 1172's delegates to register, notwithstanding the expiration of the deadline provided by the FSALC By-laws.

I trust that the foregoing addresses your concerns.

KENNETH GIBBS, REGION 9

JULY 30, 2019 (7570)

This is in reply to your letter, dated July 22, 2019, requesting that I order a new election for National Business Agent for Region 9.

I have reviewed your letter and the Facebook posts which you attached. I am declining to order a new election as requested.

As you recognize, Article 6, Section 14 of the NALC Constitution provides, in pertinent part, that "All appeals in connection with the validity of the ballots or the election must be filed by a member in good standing with the National Election Committee not later than the 20th day of the month in which announcement of the results is published in *The Postal Record*." There is no alternative process for overturning elections set forth in the Constitution.

In any event, the private dispute between Brothers Rose and Wray described in the Facebook posts has no

relevance to the conduct or outcome of the election.

Therefore, I cannot provide a favorable reply to your letter.

**JAMESE WALLS, RICHMOND, VA,
BRANCH 609**

AUGUST 26, 2019 (7591)

Your letter to NALC Headquarters, dated July 27, 2019, has been referred to me for reply. Your letter indicates that Branch 609 has arranged for the termination of your membership in the NALC for non-payment of dues. You also state that your letter should be considered an official charge or complaint against the President of the Branch and others.

Please be advised that NALC cannot act on your letter. The appropriate procedure for challenging a decision by the Branch with respect to your dues obligation would be to initiate an appeal under Article 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

Since you are not now a member of the NALC, you do not presently have the ability to initiate an appeal. However, Article 7, Section 5 of the CGSFB provides that a member who has forfeited membership is entitled to reinstatement upon "payment of back fines, assessments and dues, as well as such reinstatement fee as the Branch may prescribe by reasonable rules, uniformly applied." Previous rulings have consistently held that reinstatement under Article 7, Section 5 is mandatory.

Therefore, you may regain membership status by paying the back dues in the amount demanded by the Branch. You then may seek a refund of any amounts that you believe were improperly assessed by following the appeal process set forth in Article 11 of the CGSFB.

In addition, it is my understanding that your National Business Agent Vada Preston is investigating the issue raised in your letter.

I trust that the foregoing, at least in part, addresses your concerns.

**PHILLIP DUFEK, PHOENIX, AZ,
BRANCH 576**

AUGUST 26, 2019 (7601)

This is in reply to your email, sent Au-

gust 19, 2019, concerning your appeal to the National Committee on Appeals. The appeal concerns charges against you that apparently were sustained by the Branch. The Branch's response will be prepared by the charging party who will be given a copy of the appeal. You now ask whether the Branch must provide a second copy of your appeal to another member who has offered to assist the charging party in preparing the Branch's response.

Article 11, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches sets forth the procedures which govern appeals from Branch decisions to the Committee on Appeals. There are no provisions in Article 11, Section 2 which address your question. Accordingly, the Branch has discretion to make a second copy of the appeal available to Sister Liberty but is not required to do so.

I trust that the foregoing addresses your concerns. This letter should not be read as expressing any view as to any issue which may be raised in the appeal or the response.

MICHAEL ST. J. HENDREN, CENTER LINE, MI, BRANCH 4374

SEPTEMBER 3, 2019 (7613)

This is in reply to your letter, dated August 20, 2019, in which you raise a question concerning the procedures for nominating candidates for Branch office. Specifically, you ask whether a member who is nominated for multiple positions, but is absent from the nominations meeting, may decide which nomination to accept at a later date.

At the outset, I cannot address any specific factual scenario based on the limited information in your letter. I can offer the following general guidance.

Section 6.31(d) of the NALC Regulations Governing Branch Election Procedures (RGBEP) provides: "If a nominee is not present at the [nominating] meeting, written acceptance is permissible." This regulation reflects the requirements of federal law. Thus, the Department of Labor's (DOL) regulations covering union elections state the following:

A requirement that members must be present at the nomination meeting in

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

Neither the DOL regulations nor the RGBEP sets a time frame for acceptance of nominations after the nominations meeting is closed. Previous presidential rulings have held that any requirement that the Branch accept a nomination submitted after the meeting would have to be based on a claim by the member that he/she was absent for unanticipated reasons.

It is the responsibility of the Branch to apply the foregoing principles to the facts presented. The decision to accept or reject a disputed nomination ultimately may be appealed in accordance with the procedures set forth in Section 21 of the RGBEP.

I trust that the foregoing addresses your concerns.

JEREMIAH DICKSON, EUREKA, CA, BRANCH 348

SEPTEMBER 23, 2019 (7630)

This is in reply to your email, sent September 13, 2019, inquiring whether a former Vice President of Branch 348 is eligible to be appointed to an alternate steward position. According to your email, this member resigned as Vice President after he unintentionally applied for a supervisory position.

Unfortunately, I must advise that if the member did apply for a supervisory position, then the answer to your question is no. Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches 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.) Previous rulings interpreting this provision have concluded that members who hold or apply for a supervisory position are ineligible to hold any position in the Branch, whether elected or appointed. This would include the position of alternate steward.

I trust that the foregoing addresses your concern.

RICHARD HARPER, STATE COLLEGE, PA, BRANCH 1495

SEPTEMBER 23, 2019 (7632)

This is in reply to your letter, dated September 14, 2019, in which you ask that I provide guidance as to the scope of a Branch President's supervisory authority over the Branch.

Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that the President shall have "supervisory powers over the Branch." However, generally speaking, the President's authority is subordinate to the will of the membership. Accordingly, the President would normally be obliged to comply with a motion properly adopted at a Branch meeting, unless the motion itself violates the Constitution or the Branch By-laws, or is otherwise illegal. The President may appeal the Branch's decision to adopt the motion to the National Committee on Appeals, as provided by 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 particular dispute described in your letter or the merits of any appeal.

ZACHARY STROUD, EVANSVILLE, IN, BRANCH 377

SEPTEMBER 25, 2019 (7636)

This is in reply to your letter, received by my office on September 19, 2019, requesting a ruling as to whether a member has been disqualified from being a candidate for office in Branch 377. Ac-

ording to your letter this individual has on multiple occasions requested to become a 204b. Your letter indicates that there is no formal application process to become a supervisor in your office.

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. An oral or written expression 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 the member in question.

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. Normally, the Branch should investigate and, if necessary, discuss the situation with management to clarify whether the member's communication with management was considered an application for a supervisory position. If the Branch concludes that the member's communications with management were tantamount to an application for a supervisory position, then they would be disqualified from running for office.

I trust that the foregoing addresses your concerns.

CHRIS MALINOWSKI, ARLINGTON HEIGHTS, IL, BRANCH 2810

SEPTEMBER 25, 2019 (7637)

NALC has received an anonymous letter, dated September 13, 2019, apparently from a member or members of Branch 2810. The letter concerns a decision the Branch apparently made at a meeting on September 12th concerning which of its elected convention del-

egates would be eligible to be paid. A copy of the letter is enclosed.

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. Branches may impose a reasonable meeting attendance requirement for receipt of Branch funds to attend a convention. The Branch remains free to restrict payment of Branch funds to those elected delegates who satisfy a meeting attendance requirement set forth in the Branch By-laws. However, delegates who do not receive funding may attend the Convention at their own expense.

Accordingly, it would be inappropriate for the National Union to intervene in this matter. The issues described in the letter can only be resolved by the Branch. 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.

Any decision by the Branch would be subject to appeal to the National Committee on Appeals, in accordance with Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

Please feel free to distribute copies of this letter to members of the Branch. This letter should not be read to express any view as to the merits of any appeal.

RUSS GALUB, ROCKFORD, IL, BRANCH 245

OCTOBER 3, 2019 (7638)

This is in reply to your letter, dated September 27, 2019, requesting dispensation permitting Branch 245 to conduct its election of delegates to the National and Illinois State Conventions at its meeting on December 10, 2019. According to your letter, the Branch By-laws provide that the election of delegates is to take place at the October meeting.

In light of the facts set forth in your

letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. The Branch must provide appropriate and timely notice to the members as expeditiously as possible.

Please understand that this dispensation applies only to the 2019 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.

I trust that the foregoing addresses your concerns.

CATHERINE BODNAR, HIGHLAND, IN, BRANCH 580

OCTOBER 3, 2019 (7642)

This is in reply to your letter, received by my office on September 27, 2019, concerning a proposed merger of Branches 580, 1326, 1399, and 1624. Specifically, you ask what the status of each Branch's elected delegates would be if the merger is not completed until 2020. According to your letter, the merged Branch would be entitled the same number of delegates as the combined total of delegates of the four predecessor Branches.

The question of the status of convention delegates after a merger has been the subject of previous presidential rulings. Those rulings have consistently held that the status of a delegate from a Branch that has been merged into a larger Branch depends on the terms of the merger resolution.

In order to effectuate a merger, Branches must enter into a proposed merger agreement which must be voted on in accordance with the provisions of Article 2, Section 3 of the NALC Constitution. Under the scheme set out in Article 2 Section 3, before a vote on a proposed merger may be taken, the details of the proposed merger must be developed and included in the notice to the members. Such details include:

c) the identity and geographic area covered by the Branch which will emerge from, or the name and number of the Branch which will survive, ...;

d) any agreement or agreements between the applying Branches concerning by-laws, dues structure, terms and identity of officers,

disposition of assets, assumption of liabilities, if any, and proposed effective date of the merger or absorption shall be specified.

Prior presidential rulings have consistently recognized that merger agreements which are voted on by the members of merging Branches may specify that delegates from the non-surviving Branches will serve as delegates from the surviving merged Branch following the merger.

I trust that the foregoing addresses your concerns.

GABRAIEL HAMM, COLUMBIA, SC, BRANCH 233

OCTOBER 3, 2019 (7643)

This is in reply to your letter, dated September 24, 2019, requesting dispensation permitting Sister Crystal Prader, the current president of the Sumter, South Carolina branch, to install a new Trustee in Branch 233. According to your letter, there are no available past branch presidents as required by Article 5, Section 6 of the Constitution for the Government of Subordinate and Federal Branches.

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.

I trust that the foregoing addresses your concern.

MICHAEL ZAGAROS, MINNEAPOLIS, MN, BRANCH 9

OCTOBER 4, 2019 (7647)

This is in reply to your letter, received by my office on October 3, 2019, requesting dispensation permitting Branch 9 to select its delegates to the 2020 Minnesota State Convention, and determine their compensation, outside the terms of the Branch 9 By-laws. It appears that due to the decision of the 2019 Minnesota State Association at its most recent convention to change to annual conventions, the Branch has not

been able to nominate and elect delegates to the 2020 convention on the dates prescribed by the By-laws.

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. Accordingly, Branch 9 may set compensation for delegates to the 2020 Minnesota State Convention; print notice of nominations in the October issue of the Branch Nine News; nominate delegates at the November General Membership Meeting; and elect delegates at the December membership meeting.

Please understand that this dispensation applies only to the election of delegates to the 2020 state 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.

I trust that the foregoing addresses your concerns.

WILLIAM BARNES, VALLEY VIEW, OH, BRANCH 40

OCTOBER 10, 2019 (7650)

This is in reply to your letter, dated October 8, 2019, requesting a ruling concerning an appeal from a decision of Branch 40 to the National Committee on Appeals under Article 11, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. Specifically, you ask whether Article 11, Section 2 requires the Branch to read aloud the entire appeal at its upcoming 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 summary should be unbiased and comprehensive.

I also recommend that all the materials be made available for review at the meeting for whoever wants to see them.

I trust that the foregoing addresses your concerns.

RONALD ZALEWSKI, CENTER LINE, MI, BRANCH 4374

OCTOBER 11, 2019 (7649)

This is in reply to your letter, dated October 3, 2019, inquiring whether Branch 4374 may consider a motion to waive Brother Fred Stadelbauer's dues obligation. Brother Stadelbauer is presently unable to work because he was hit by a car while on the job.

It does appear that the proposed waiver would be inconsistent with the Branch By-laws which, according to your letter, require non-working members receiving OWCP benefits to pay one third of their dues each pay period. Branches cannot waive the provisions of their by-laws by motion. Accordingly, your alternative request for dispensation is appropriate.

Therefore, in light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 4374 dispensation to consider and adopt a motion waiving Brother Stadelbauer's dues obligation.

I trust that the foregoing addresses your concerns.

GLENN GILBERT, ANNISTON, AL, BRANCH 448

OCTOBER 11, 2019 (7651)

This is in reply to your letter, dated October 10, 2019, requesting dispensation to postpone Branch 448's nominations and election of officers and to conduct the election outside the time frame provided by the Branch By-laws. 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 2019 nomination

tion and election of officers. 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.

I trust that the foregoing addresses your concerns.

**JANA MARON, PEORIA, AZ,
BRANCH 576**

OCTOBER 15, 2019 (7644)

This is in reply to your letter, dated September 26, 2019, concerning the appeal of Branch 576 President Phil Dufek to the National Committee on Appeals.

While I appreciate your interest and concerns, I must advise that it would be inappropriate for me to comment on any of the issues raised in your letter. Article 11, Section 1 of the NALC Constitution for the Government of Subordinate and Federal Branches provides that “any member considering that an injustice has been done him/her by a decision of the Branch, may appeal in writing to the Committee on Appeals of the National Association.” Thus, a charged party who has been found guilty has a constitutional right to appeal.

The composition of the National Committee on Appeals is also mandated by the Constitution. Article 11, Section 4(a) of the National Constitution provides that “the Vice President, Secretary-Treasurer, and Chairperson of the Board of Trustees shall constitute the Committee on Appeals.” At present, those officers consist of Lew Drass, Nicole Rhine, and Larry Brown. These are very experienced officers who base their decisions solely on their assessment of how the language of the Constitution applies to the facts presented in the appeal file.

In sum, as National President I have no constitutional role in the disposition of the appeal.

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

OCTOBER 15, 2019 (7652)

This is in reply to your letter, dated September 30, 2019, concerning a letter you have received from a member

complaining about his representation by a steward in Branch 231. You ask whether you should treat this letter as a formal charge under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) and, if so, how you should proceed.

At the outset, it would be inappropriate for the National Union to intervene in this matter at this time. The determination whether to treat the letter as a formal charge must be made, initially, by you as Branch President. I can provide the following guidance.

Article 10, Section 1 of the CGSFB allows charges based on claims that a member has violated the Constitution or Branch By laws; or that an officer has failed or neglected to discharge the duties of his/her office, or committed gross misconduct. Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) states: “Charges must be made in writing, specifying the offense, failure, neglect, or misconduct so as to fully apprise the member or officer of the nature thereof, and shall be signed by a member of the Branch.”

It is the responsibility of the charging party to draft the letter of charges. However, after the letter of charges is submitted to the Branch, the Branch is obliged to serve the charges on the charged party. Article 10, Section 2 requires that copies of the charges be served on the charged parties “under seal or letterhead of the Branch.”

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.

Finally, a written complaint about a Branch officer or steward is not necessarily a formal letter of charges under Article 10. If you conclude that the letter does not sufficiently set forth formal charges, you may treat it as an informal

complaint and address the member’s concerns by other means. For example, you may investigate the matter complained of and, if you conclude that the steward was at fault, take corrective action pursuant to your authority as President and Chief Steward of the Branch under Article 6, Section 1 of the CGSFB.

This letter should not be read to express any view as to the merits of the member’s allegations against the steward.

I trust that the foregoing addresses your concerns.

**VINCENT MASE, NORTH HAVEN,
CT, BRANCH 19**

OCTOBER 18, 2019 (7653)

This is in reply to your three letters, which you faxed to my office on October 16, 2019, requesting rulings with respect to the upcoming re-run of Branch 19’s 2017 election of officers.

Your first question is whether a member may be nominated and run for more than one position. The answer to this question is no. Section 6.5 of the NALC Regulations Governing Branch Election Procedures states: “No person shall accept nomination for more than one office.”

Your second question is whether the vote should be restricted to those members who were eligible to vote in the 2017 election. Again the answer is no. As previous rulings have recognized, all members who are eligible to vote at the time of a run-off or re-run election may vote. Therefore, individuals who became members after the original election are eligible to vote.

Your third question concerns the status of Brother T.J. Matteo who, according to your letter, was elected as a Trustee in 2017, but was subsequently appointed Sergeant-at-Arms. The limited information contained in your letter does not indicate that Brother Matteo is now required to vacate his present office while the re-run election is taking place.

However, I cannot advise you whether the 2017 election of Sergeant-at-Arms is subject to being re-run. Nor can I address whether Brother Matteo must be a candidate in the new election for Trustee. The answers to those questions

depend on whatever agreement the Branch made with the Department of Labor and the terms of the implementing motions adopted by the Branch. As President of the Branch you may rule on those issues. Your decision would be subject to appeal to the Branch.

I trust that the foregoing addresses your concerns, at least in part.

**WILLIAM WHITING, JR., HAMP-
TON, VA, BRANCH 247**

OCTOBER 21, 2019 (7654)

This is in reply to your letter, dated October 15, 2019, inquiring whether certain members were eligible to be nominated for delegate positions under the Branch 247 By-laws. These members were absent from the nominations meeting but sent certified letters to the Branch before the meeting stating they wanted to be nominated as delegates.

Please be advised that it would be inappropriate for me to resolve a question as to the meaning of the Branch By-laws. As National President it is my responsibility to interpret the NALC Constitution and election regulations. The interpretation of the By-laws is the responsibility of the Branch itself.

I can provide the following guidance based on the requirements of the Constitution and the NALC Regulations Governing Branch Election Procedures (RGBEP).

Article 4, Section 4 of the Constitution for the Government of Subordinate and Federal Branches provides:

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

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

Section 6.31(d) of the RGBEP was adopted by the Executive Council to implement Article 4, Section 4 in a manner

which is consistent with this interpretation. It provides: "If a nominee is not present at the [nominating] meeting, written acceptance is permissible." This regulation also ensures that the nomination procedure is consistent with the requirements of federal law. The Department of Labor's (DOL) regulations covering union elections state the following:

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

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

I trust that the foregoing addresses your concerns.

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

OCTOBER 22, 2019 (7655)

This is in reply to your letter, dated October 12, 2019, requesting that I rule on Branch 47 President Alex Aguilar's column in a recent edition of the Branch newsletter. In particular, you ask me to declare that Brother Aguilar's statement at the end of the column that he will run for re-election should be considered a campaign advertisement which he should pay for.

Please be advised that it would be entirely inappropriate for me to rule on this question. This is a local issue which must be resolved, in the first instance, by the Branch itself. You may raise the issue by initiating an appeal to the Branch under Article 11 of the Constitution for the Government of Subordinate and Federal Branches. I express no view on the merits of any such appeal.

I trust that the foregoing addresses your concern, at least in part.

**WILLIAM WRAY, RALEIGH, NC,
BRANCH 459**

OCTOBER 22, 2019 (7656)

This is in reply to your letter, dated October 17, 2019, requesting dispensation to postpone Branch 459's announcement of the results of its election of delegates outside the time frame provided by the Branch By-laws. This request is necessitated by the Branch's inadvertent failure to change the date of the announcement when it amended its By-laws to eliminate its December meeting. According to your letter, nominations were held at the October meeting. I assume the Branch will conduct the election at its November meeting.

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

Please understand that this dispensation applies only to the 2019 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. Suitable amendments to the By-laws should be adopted to ensure compliance.

I trust that the foregoing addresses your concerns.

**PAUL ROZNOWSKI, MADISON
HEIGHTS, MI, BRANCH 3126**

NOVEMBER 6, 2019 (7664)

This is in reply to your letter, dated October 28, 2019, concerning the 2020 NALC National Convention and the 2021 Michigan State Convention. Specifically, you ask whether two members who transferred to Branch 3126 would be eligible to serve as convention delegates if any vacancies arose. These members were eligible to serve as delegates in their former Branch but could not be nominated at Branch 3126's nominations meeting on October 3.

Unfortunately, the Constitution does not permit Branches to simply appoint members to serve as delegates. 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 specific members. 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 a special election of additional delegates. Alternatively, the two members in question may attend the National Convention as guests.

I trust that the foregoing, at least in part, addresses your concerns.

RICHARD DROLET, NEW BEDFORD, MA, BRANCH 18

NOVEMBER 6, 2019 (7666 & 7671)

This is in reply to your email, sent October 30, 2019, inquiring whether Branch 18 President Brian Simmons has been disqualified from continuing to serve as President as a result of an inquiry to a supervisor in Warwick, Rhode Island about the availability of a management advocate 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 email 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 Brother Simmons. For example, your email does not indicate whether the Postal Service treated Brother Simmons' text message 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 Brother Simmons' inquiry was considered an application for a supervisory position. If the Branch concludes that in the present case Brother Simmons' inquiry was not tantamount to an application for a supervisory position, then he will remain eligible to serve as Branch President.

I trust that the foregoing addresses your concerns.

DOUG JAYNES, AURORA, CO

COLORADO STATE ASSOCIATION OF LETTER CARRIERS

NOVEMBER 6, 2019 (7669)

This is in reply to your letter, received by my office on November 1, 2019, concerning the election of Jeff Frey as the Director of Retirees of the Colorado State Association of Letter Carriers. According to your letter, Brother Frey is not retired. However, he was the only nominee for the position and was elected by acclamation.

As you recognize, the election of Brother Frey is inconsistent with Article 8, Section 8(a) of the NALC Constitution for the Government of Subordinate and Federal Branches, which requires that the Director of Retirees be a retired member. Apparently, the State Associa-

tion was not aware of this requirement when Brother Frey was nominated and is now in the process of amending its By-laws to limit eligibility in the future to retired members.

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 dispensation permitting Brother Frey to continue serving as Director of Retirees until the next Colorado State Association convention. Please understand that this dispensation applies only to the present circumstances. At the next convention, the State Association must nominate and elect a retired member to serve as Director of Retirees. The State Association By-laws should be amended at that Convention to ensure that only retired members are elected in the future.

I trust that the foregoing addresses your concerns.

VINCENT MASE, NORTH HAVEN, CT, BRANCH 19

NOVEMBER 7, 2019 (7672)

This is in reply to your letter, dated October 25, 2019, in which you ask various questions regarding a request by a member of Branch 19 for meeting minutes and specified financial records.

At the outset, the dispute described in your email is an internal Branch matter. It would be inappropriate for me to comment on the specifics of this matter. However, I can offer the following guidance with respect to the constitutional principles that apply to this situation.

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.

The only provision of the Constitution that is directly relevant to the request for access to financial records is Article 6, Section 4 of the CGSFB which states that 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. There are no provisions in the Constitution requiring Branches to provide individual members with copies of such records.

Apart from the Constitution, federal law requires that the Branch permit members “for just cause to examine any books, records, and accounts necessary to verify” the Branch’s LM-2 Report. I am in no position to offer an opinion as to whether just cause exists in this case (although nothing in the correspondence that you forwarded to me indicates that the requesting member is asserting a claim under the law).

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

I trust that the foregoing, at least in part, addresses your concerns.

JOSHUA PETERSON, BLOOMINGTON, IN, BRANCH 828

NOVEMBER 8, 2019 (7681)

This is in reply to your email, sent November 6, 2019, requesting dispensation permitting Branch 828 to send out a second corrected mail ballot in its ongoing election of national and state convention delegates. According to your email, the ballot that has been mailed to the members inadvertently listed the nominees for national and state delegates under the wrong headings.

It certainly appears that a corrected ballot 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 828 dispensation to extend the deadline for receipt of ballots in its current delegate election so as to afford the Branch Election Committee sufficient time to remedy the flawed ballot.

As proposed, the Election Committee may issue a new ballot, use a different color secret ballot envelope label, and process the new mailing as expeditiously as possible. A written explanation of why the second ballot is being sent should be included with the corrected ballots. The Committee may establish a new deadline for receipt of ballots which should be a minimum of twenty days after they are mailed.

I trust that the foregoing addresses your concerns.

RENAE BIRNELL, COLORADO SPRINGS, CO, BRANCH 204

NOVEMBER 26, 2019 (7688)

Your email to Secretary-Treasurer Nicole Rhine, sent November 12, 2019, has been referred to me for reply. Your email asks whether a nominee for convention delegate in Branch 204 has been disqualified as a result of sending an email inquiring about becoming a 204b.

Article 5, Section 2 of the NALC Constitution prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from serving as a convention delegate 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 email 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 the member in question. For example, your email does not indicate whether the Postal Service treated the member’s email 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 member’s inquiry was considered an application for a supervisory position. If the Branch concludes that in the present case the inquiry was not tantamount to an application for a supervisory position, then the member will remain eligible to be a candidate for delegate.

I trust that the foregoing addresses your concerns.

DAVID GROSSKOPF, JR., BUFFALO, NY, BRANCH 3

NOVEMBER 26, 2019 (7689)

This is in reply to your email, sent November 18, 2019, requesting dispensation permitting Branch 3 to reopen its nominations for delegates to the 2020 National Convention. According to your email, several members who wish to serve as delegates were either unaware of or unable to attend the Branch’s regular nominations meeting.

I assume from your email that the Branch has additional delegate slots which remain unfilled. If that is the case, then, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

The Branch 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 a special election of additional delegates.

I trust that the foregoing addresses your concerns.

THEODORE KENDRICKS, ATLANTA, GA, BRANCH 73

NOVEMBER 26, 2019 (7700)

This is in reply to your letter, dated November 21, 2019, requesting dispensation to extend the deadline for return of ballots in Branch 73’s current election of officers and delegates. According to your letter, the Branch’s election contractor was unable to mail the ballots in sufficient time to allow the minimum twenty day balloting period required by Section 14.2 of the NALC Regulations

Governing Branch Election Procedures.

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 Election Committee may set a new deadline for receipt of ballots which must be at least twenty days after the ballots are mailed. Every effort should be made to notify the members of this change as expeditiously as possible. The new deadline should be included in the instructions which are mailed with the ballots.

Please understand that this dispensation applies only to the 2019 nomination and 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.

I trust that the foregoing addresses your concerns.

FREDDIE JACKSON, RICHARDSON, TX, BRANCH 4784

DECEMBER 4, 2019 (7703)

This is in reply to your letter, which was emailed to my office on November 25, 2019, concerning the December election of delegates in Branch 4784. According to your letter, Branch Vice President Joe Cook inadvertently failed to nominate Steward Bysheir Morris for a delegate position. Brother Morris had to leave the meeting before nominations and had asked Brother Cook to nominate him. Brother Cook had said he would do so. You now ask whether the situation can be remedied by placing Brother Morris' name on the ballot.

Insofar as the delegate election has not yet taken place and Brother Morris had indicated his intent to accept nomination at the nominations meeting, your suggestion is reasonable. Therefore, in accordance with my authority under Article 9.1 of the NALC Constitution, I hereby grant Branch 4784 dispensation to include Brother Bysheir Morris on the ballot for the 2019 election of delegates.

Please understand that this dispensation applies only to the 2019 election of

delegates. In the future, the Branch will be expected to follow all required procedures for nominating delegates.

I trust that the foregoing addresses your concerns.

MARLANA BERNHEISEL, CHARLOTTE, MI, BRANCH 122

DECEMBER 4, 2019 (7705)

This is in reply to your letter, dated November 23, 2019, concerning a vacancy in an office in Branch 122. Specifically, your letter appears to be seeking a ruling from me as to the validity of a motion you made to conduct a special election to fill that vacancy.

At the outset, it would be inappropriate for me to rule on your specific motion, particularly since I only have your side of the story before me. I can offer the following general guidance.

Article 4, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches specifically provides that the Branch President may fill vacancies in officer positions by appointment, unless the Branch By-laws provide for an order of succession. In addition, previous presidential rulings have held that Branches may make provision in their By-laws to hold special elections to fill vacancies in Branch offices, even though such special elections are not required by the Constitution.

If the Branch By-laws do not provide for either an order of succession or a special election, then the President of the Branch may appoint members to fill all vacant officer positions. If the Branch wants to conduct a special election instead, 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.

I trust that the foregoing, at least in part, addresses your concerns.

SHAWN BOYD, REGION 10

DECEMBER 12, 2019 (7717)

This is in reply to your email, sent December 4, 2019, concerning the situation in Branch 4377.

In light of the facts set forth in your email, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution I hereby authorize you to act as chair of the Branch meeting scheduled for December 17 and to conduct the installation of Branch officers.

Please contact the incumbent Branch President and advise her of my decision.

JOSEPH HENSCHEN, PINELLAS PARK, FL, BRANCH 1477

DECEMBER 12, 2019 (7718)

Your letter to Secretary-Treasurer Nicole Rhine, dated December 5, 2019, has been referred to me for reply. Your letter asks whether an officer of Branch 1477, who has been elected by acclimation, may assist the Branch Election Committee in opening envelopes, separating ballots for counting, and counting the ballots in the current election of officers and delegates.

Please be advised that under Section 17 of the NALC Regulations Governing Branch Election Procedures, the Branch Election Committee has sole responsibility of the collection, opening, and counting of ballots. The Election Committee may enlist other members of the Branch to assist in all aspects of this process under the Committee's supervision. This could include an incumbent officer who is not a candidate in the election. The Committee should advise all candidates and observers of the appointment of other Branch members to assist them.

I trust that the foregoing addresses your concerns.

MARK TRAVERS, MIAMI LAKES, FL, BRANCH 1071

DECEMBER 23, 2019 (7716)

This is in reply to your letter, dated November 29, 2019, concerning Branch 1071's nomination and election of delegates to the 2020 NALC National Convention. Specifically, you ask whether Brother Ross Williams may be included as a delegate even though he was not nominated. Apparently, Brother Williams erroneously thought that signing the Branch's convention roster was suf-

ficient for him to be nominated.

Unfortunately, the Constitution does not permit Branches to simply appoint members to serve as delegates. 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 one member. Accordingly, the Branch may submit to me a request for dispensation to extend the deadline for nominations for delegates. 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 a special election of additional delegates.

Alternatively, Brother Williams may attend the National Convention as a guest.

I trust that the foregoing, at least in part, addresses your concerns.

**BRIAN DUNIGAN, PAYALLUP, WA,
BRANCH 1484**

DECEMBER 26, 2019 (7720)

This is in reply to your email, sent December 6, 2019, concerning Branch 1484's recent nominations of Branch officers, which resulted in all officers, including you, being nominated without opposition. However, you subsequently discovered that the Branch had failed to provide the membership with timely notice of nominations and election. After conferring with your National Business Agent's office, you now ask for guidance as to how to rectify this situation.

At the outset, I appreciate your willingness to serve as Branch President as well as your diligence in bringing this matter to our attention.

Based on your representations, I am treating your letter as a request on behalf of the Branch to conduct a new round of nominations and a special election. Therefore, 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. As provided by the NALC Regulations Governing Branch Election Procedures (RGBEP), the notice should be sent at least 45 days before the election, and 10 days before nominations. (See RGBEP Sections 5.1 and 6.1.)

By copy of this letter, I am requesting that National Business Agent Nick Vafiades provide any assistance the Branch may require to conduct a proper election.

Please understand that this dispensation applies only to the 2019 nomination and election of officers. For future elections, the Branch must comply with the time frames and notice requirements provided by its By-laws, the Constitution, and the RGBEP.

I trust that the foregoing addresses your concerns.

**DIANE TAYLOR, NEWALLA, OK,
BRANCH 458**

DECEMBER 26, 2019 (7723)

This is in reply to your email, sent December 12, 2019, requesting guidance concerning alleged campaign misconduct and misuse of union resources by former Branch President David Miller in the recent election of officers in Branch 458.

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.

At the outset, incumbent and former Branch officers, like any other member, have the right to campaign on behalf of candidates for Branch office. However, consistent with federal law, the NALC Regulations Governing Branch Election Procedures (RGBEP) generally prohibits

the use of union funds and resources to support or oppose candidates in Branch elections. See RGBEP Sections 9.4 and 9.7. Allegations of improper use of union resources, such as a telephone list, in a Branch election must be addressed, in the first instance, at the Branch level in accordance with the procedures for post-election appeals which are set forth in Section 21 of the NALC Regulations Governing Branch Election Appeals.

It is not clear from your letter whether the losing candidate has initiated such an appeal. In any event, this letter should not be read to express any view as to the merits of any pending appeal.

I trust that the foregoing, at least in part, addresses your concerns.

**PHILIP SKIPPER, PENSACOLA, FL,
BRANCH 321**

JANUARY 7, 2020 (7724)

This is in reply to your letter, dated December 15, 2019, concerning Branch 321's nomination and election of delegates to the 2020 NALC National Convention. Specifically, you ask whether the Branch properly adopted a motion to include two members as delegates even though they had not been nominated or elected. Apparently, the two members missed the nominations meeting due to medical issues.

Unfortunately, the Constitution does not permit Branches to simply appoint members to serve as delegates. 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. Accordingly, the motion described in your letter is invalid.

It is not clear from your letter whether the Branch has elected its full slate of delegates. If it has not, so that there are delegate positions which have not been filled, I would consider a request for dispensation permitting the Branch to conduct as second round of nominations of delegates to allow it to fill any remaining slots. I caution that if such dispen-

sation 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 a special election of additional delegates.

Alternatively, Brother Grier and Sister Steward may attend the National Convention as guests.

I trust that the foregoing, at least in part, addresses your concerns.

**TAMARA BRESLIN, LILBURN, GA,
BRANCH 73**

JANUARY 8, 2020 (7725)

Your letter to NALC Secretary-Treasurer Nicole Rhine, dated December 14, 2019, has been referred to me for reply. Your letter claims that your name was improperly left off the ballot in the recent Branch 73 election of delegates to the Georgia State and National Conventions. You also allege that some members did not receive their ballots.

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.

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. 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 appeal.

**CLIFTON HOSKINS, JR., BELLEVILLE,
IL, BRANCH 319**

JANUARY 8, 2020 (7726)

This is in reply to the letter you and two other members have submitted to

me, which was received by my office on January 2, 2020, concerning the recent Branch 319 election of officers and delegates. The letter complains that the Branch's August 19 notice of nominations and election erroneously advised that all members would receive ballots in the mail and that two retired carriers were allowed to vote without "proper documentation."

The August 19 letter which you submitted states that the election would take place at the regular Branch meeting on December 10. It also explains how absentee ballots could be obtained for those who could not attend the meeting. Accordingly, the basis for your objection to the notice is not clear to me.

In any event, while I appreciate your concerns, I must advise that it would be inappropriate for me to comment on the specific claims, particularly since I only have one 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. 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 appeal.

**MARIO WALKER, AURORA, IL,
BRANCH 219**

JANUARY 8, 2020 (7738)

This is in reply to your email, sent January 6, 2020, requesting that I rule on an ongoing dispute in Branch 219 over whether you have resigned as President. According to your email, you sent a text to a member of the Executive Board indicating that you intended to resign and subsequently recanted in a telephone conversation with the Branch Vice President.

At the outset, please be advised that it would be inappropriate for me to ad-

dress this specific situation based on the limited information contained in your email. I can provide the following general advice.

There are no provisions in the Constitution specifying procedures for the resignation of Branch officers. 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).

I trust that the foregoing addresses your concerns, at least in part.

STEVE LASSAN, REGION 8

JANUARY 9, 2020 (7693)

This is in reply to your letter, dated December 20, 2019, concerning RGA Jason Atchley's investigation of the situation in Branch 2585. According to your letter, the Branch has conducted its election on the basis of four year terms.

Section 3.1 of the NALC Regulations Governing Branch Election Procedures specifically requires that Branches hold elections of officers at least every three years. This provision reflects the requirements of the NALC Constitution (see Article 4, Section 2 of the Constitution for the Government of Subordinate and Federal Branches), as well as federal law. Therefore, it is imperative that the Branch conduct a special election of officers as expeditiously as possible.

In addition, the Branch must adopt By-laws which specify whether the term of office will be one, two, or three years, as required by Article 4, Section 2.

Accordingly, please designate either Brother Atchley or another representative from your office to assist the Branch in drafting and adopting By-laws and to conduct an election of officers and stewards.

Please feel free to contact me if you require any additional assistance.

WAYNE GREEN, JR., WINSTON-SALEM, NC, BRANCH 461

JANUARY 9, 2020 (7739)

This is in reply to your letter, dated January 7, 2020, requesting guidance as to the installation of officers in Branch 461. Specifically, you ask whether former President Reggie Gentle may install you as President, along with other officers, in light of the fact that he, too, has been elected to a Branch office.

The answer to your question is yes. Installations are governed by Article 5, Section 6 of the Constitution for the Government of Subordinate and Federal Branches. Article 5, Section 6 provides for installations to be conducted by "any National officer, a Past President of the National Association, or a President or Past President of a State Association." However, in the absence of any such present or past officers, the installation may be conducted by "any officer of a State Association or the Past President of a Branch." This language permits the Past President of any Branch, including the Branch in question, to conduct the installation. There is no language which disqualifies a Past President who has been elected to another office.

Accordingly, Brother Gentle may swear in the elected officers. After the ceremony, it would be appropriate for you, as current President, to swear in Brother Gentle, as suggested in your letter.

I trust that the foregoing addresses your concerns.

TRACY SHUCK, ADRIAN, MI, BRANCH 579

JANUARY 15, 2020 (7744)

This is in reply to your letter, dated January 12, 2020, requesting dispensa-

tion permitting Branch 579 to conduct a special election for President and Vice President. According to your letter, the two members who were elected by acclamation in November as President and Vice President have both declined to be installed. Since the Branch By-laws do not provide an order of succession, it would appear 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 579 may conduct a special election of President and Vice President for the remainder of the current terms of office. As indicated in your letter, the Branch may conduct nominations on February 13 and hold ballot elections, if necessary, on March 12 or April 9.

I trust that the foregoing addresses your concerns.

DAN VERSLUIS, REGION 4

JANUARY 24, 2020 (7719)

This is in reply to your letter, dated January 13, 2020, concerning the election of officers in Branch 4189.

Brother Hartman's report clearly demonstrates that the most recent election did not comply with the NALC Regulations Governing Branch Election Procedures (RGBEP) and the requirements of federal law. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I am hereby granting Branch 4189 dispensation to conduct a special election of officers. The election should be conducted as expeditiously as possible.

Please assign Brother Hartman or another representative from your office responsibility for assisting the Branch in conducting the special election in accordance with the RGBEP.

Thank you for addressing this matter. I appreciate the cooperation of all concerned.

CALVIN PALMQUIST, ROSEBURG, OR, BRANCH 1518

JANUARY 24, 2020 (7752)

This is in reply to your letter, dated January 14, 2020, requesting dispensation per-

mitting Branch 1518 to conduct a special election of officers. According to your letter, the last election resulted in no nominations other than yourself. Apparently, other members are now willing to step forward to fill the vacant Branch offices.

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 1518 dispensation to conduct a special election of officers. The election should be conducted as expeditiously as possible.

By copy of this letter, I am requesting that National Business Agent Nick Vafiades designate a representative from his office to oversee the conduct of nominations and a special election, if one is necessary.

I trust that the foregoing addresses your concerns. Thank you for bringing this matter to my attention.

MIKE JOHNSON, CHERRY VALLEY, IL, BRANCH 245

JANUARY 24, 2020 (7753)

This is in reply to your recent letter, received by my office on January 16, 2020, in which you question whether the officers of Branch 245 may serve as paid delegates to NALC National Convention.

While I appreciate your concerns, I must advise that it would be inappropriate for the National Union to intervene in this matter at this time. Issues concerning the conduct of a Branch election, including claims that the notice of nominations and election was defective, must be brought in the form of a post-election appeal to the Election Committee under Section 21 of the NALC Regulations Governing Branch Election Procedures. Objections to the expenditure of Branch funds may be brought as an appeal under Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to express any view as to the merits of any appeal.

CHRISTINE GILLILAND, E. ST. LOUIS, MO, BRANCH 319

JANUARY 24, 2020 (7754)

This is in reply to your letter, dated Janu-

ary 20, 2020, inquiring whether Branch 319 should conduct a new installation of its recently elected officers. According to your letter, the installation was conducted by the current Presidents of other branches, rather than a “Past President of a Branch” as specified by Article 5, Section 6 of the Constitution for the Government of Subordinate and Federal Branches.

I do not believe it is necessary to conduct another installation, even though the one that was performed may have been technically inconsistent with the constitutional language. In light of the facts, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 319 retroactive dispensation permitting its installation of officers to be conducted by the current Presidents of other Branches.

I trust that the foregoing addresses your concerns.

**TRINA HAMLIN, HOBE SOUND, FL,
BRANCH 1690**

JANUARY 27, 2020 (7759)

Your letter to NALC Secretary-Treasurer, dated January 18, 2020, has been referred to me for reply.

According to your letter, your appeal of the conduct of Branch 1690’s steward election at the West Palm Beach Gardens facility remains pending. Accordingly, while I appreciate your concerns, I must advise that it would be inappropriate for the National Union to intervene in this matter, or for me to 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, as provided in Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches (CGS-FB), 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 im-

properly, may initiate an appeal at the Branch level. Ultimately, the decision of the Branch may be appealed to the National Committee on Appeals under Article 11, Section 2 of the CGSFB.

I trust that the foregoing addresses your concerns, at least in part. This letter should not be read to express any view as to the merits of any appeal.

**JONATHAN ADAMETS, LELAND, FL,
BRANCH 2591**

FEBRUARY 7, 2020 (7762)

This is in reply to your letter, received by my office on January 31, 2020, requesting guidance with respect to officer vacancies in Branch 2591. According to your letter, at its nominations meeting in November, the Branch failed to open nominations for Financial Secretary, Sergeant at Arms, or its three member Board of Trustees. You also note that although these positions are included in the Branch By-laws, they have not been filled in many years.

The Branch may address this situation in either of two ways.

First, the Branch may conduct a special election to fill the vacancies. To do so, you should submit to me a request for dispensation to conduct nominations and an election if necessary based on the facts set forth in your letter.

Alternatively, the Branch should amend its By-laws to eliminate the unfilled positions. While it is permissible for the Branch to have fewer elected officers than those listed in the Constitution, the By-laws must guarantee that only elected officers handle the duties assigned to the officers listed in the Constitution. Accordingly, the amended By-laws should explicitly consolidate each office which the Branch wishes to forego with one of the other elected Branch offices. See Article 4, Sections 1 and 3, and Article 6 of the NALC Constitution for the Government of Subordinate and Federal Branches.

As President of the Branch you have the authority to assign the duties of the unfilled offices to the current elected officers on a temporary basis until such time as the Branch either holds a special election or amends its By-laws.

I trust that the foregoing addresses your concerns.

**JIM MOULTON, AURORA, IL,
BRANCH 219**

FEBRUARY 12, 2020 (7766)

This is in reply to your letter, dated February 5, 2020, requesting guidance concerning the processing of charges against the former President of Branch 219. Your letter indicates that the charges were read at the January Branch meeting. However, due to difficulties in forming an investigating committee and the quantity of charges that must be investigated, the Branch may not be able to vote on the charges until its March meeting, or possibly later.

As you recognize, Article 10, Section 1 of the Constitution for the Government of Subordinate and Federal Branches 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.

Prior rulings have also 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. If necessary, I would be prepared to grant the Branch dispensation to extend the time needed to investigate and vote on charges.

I trust that the foregoing addresses your concerns.

**ANDY ADKINSON, NORTHWOOD,
OH, BRANCH 100**

FEBRUARY 12, 2020 (7771)

This is in reply to your letter, dated February 11, 2020, concerning a pend-

ing election appeal in Branch 100. According to your letter, a candidate for president has filed a post-election appeal which was denied by the Election Committee and Branch Executive Board. The candidate has now submitted an appeal to the Branch, but, according to your letter, there is an issue as to whether that appeal is timely. You now ask how that issue should be addressed.

Please be advised that the appeal must be presented to the Branch meeting even if the officers of the Branch believe that it is untimely. Under Section 21.3 of the NALC Regulations Governing Branch Election Procedures “the merits of the appeal” must be decided by the “members present at the next scheduled meeting of the branch.” This would include any dispute over the timeliness of the appeal. The members’ decision may, in turn, be appealed to the National Committee on Appeals.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the timeliness of the appeal in question.

**JOHN BAMFORD, THE COLONY, TX,
BRANCH 4065**

FEBRUARY 19, 2020 (7774)

This is in reply to your letter, received by my office on February 13, 2020, protesting a decision by Branch 4065 at its January meeting to allow one of its Trustees to attend the 2020 National Convention as an alternate delegate. According to your letter, the Branch Bylaws provide that all officers are automatic delegates. However, you assert that this Trustee withdrew as a delegate to serve as Chairman of the Branch Election Committee.

While I appreciate your concerns, I must advise that it would be entirely inappropriate for me to comment on the issues you have raised, particularly since I only have your side of the story before me. Decisions taken at a Branch meeting may be challenged by submitting an appeal to the National Committee on Appeals. The procedure for appealing a Branch decision is set forth in Article 11, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to express any view as to the merits of any appeal.

**DAVID NORTON, PORTLAND, OR,
BRANCH 82**

FEBRUARY 24, 2020 (7780)

This is in reply to your letter, dated February 18, 2020, concerning the recent election of officers in Branch 82. According to your letter, the Election Committee upheld a post-election complaint that a successful candidate for an Executive Board position committed violations of Section 9.7 of the NALC Regulations Governing Branch Election Procedures (RGBEP). To remedy the violation, the Election Committee recommended that the candidate be disqualified from taking office and the position in question should be filled by the candidate who received the next highest number of votes.

The Election Committee’s recommendation has since been upheld by the Branch Executive Board and the Branch in accordance with the appeal procedure set forth in Section 21 of the RGBEP. You now ask whether the member in question may remain on the Executive Board pending an appeal to the National Committee on Appeals.

At the outset, it would be entirely inappropriate for me to comment on any aspect of this appeal while it remains pending. I can offer the following general guidance.

In those instances where the Branch determines in an election appeal that a successful candidate committed a violation of the NALC election regulations, the appropriate remedy is a rerun election for the office in question, so long as the violation may have affected the outcome of the election. Neither the RGBEP nor the NALC Constitution authorizes the removal of an elected officer through the election appeal procedure. Generally speaking, the removal of an officer is permissible only after the officer has been found guilty of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches.

Going forward, I recommend that the

Branch reconsider its remedy decision in light of the foregoing. Any decision by the Branch to order a rerun election, as well as the original decision upholding the election appeal on the merits, would remain subject to appeal to the National Committee on Appeals.

I trust that the foregoing addresses your concerns. Once again, this letter should not be read to express any view as to any issue which may remain subject to appeal.

**JAMES BRUCE, BELLEVILLE, IL,
BRANCH 155**

FEBRUARY 24, 2020 (7782)

This is in reply to your letter, dated February 17, 2020, inquiring whether a member of Branch 155 has been disqualified from continuing to serve as Branch Secretary. According to your letter, this member applied for a non-bargaining unit position of Customer Support Specialist.

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, non-bargaining unit positions 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. It will be your responsibility, as Branch President, to determine whether the position in question carries supervisory authority. If it does not, then the member in question would not be disqualified from continuing to serve as an officer.

I trust that the foregoing addresses your concerns.

GILBERTO RAMOS, JR., ARLINGTON, TX, BRANCH 2309

FEBRUARY 24, 2020 (7783)

This is in reply to your letter, dated

February 18, 2020, requesting guidance as to whether Branch 2309 may properly pay the expenses of a delegate to the National Convention. According to your email, this member transferred from another Branch and thus did not attend the minimum number of Branch meetings required by the By-laws to qualify for payment. He did attend the required number of meetings in his former Branch.

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 and also how to apply the relevant By-law language to specific situations. Likewise, the Branch is free to accept or deny justifications for non-attendance under the relevant provisions of its By-laws.

You also ask whether the Branch may vote to authorize payment for this individual. Generally speaking, Branches may not take actions which conflict with their By-laws. However, it would be inappropriate for me to rule on whether the meeting attendance provision in the Branch 2309 By-laws was intended to prohibit the Branch from authorizing, on a case-by-case basis, compensation for members who did not meet the meeting attendance standard. Disputes over the meaning or application of by-law provisions must be addressed, in the first instance, at the Branch level.

Finally, as you suggest, the Branch may certainly amend its By-laws to address the situation described in your letter in the future. If you need assistance in drafting appropriate language, you may contact Assistant Secretary-Treasurer Paul Barner, who chairs the NALC Committee of Laws.

I trust that the foregoing, at least in part, addresses your concerns.

TROY CLARK, REGION 6

FEBRUARY 24, 2020 (7784)

This is in reply to your email, sent on February 24, 2020, regarding the situation in Branch 707.

The facts set forth in your email entirely justify your request for dispensation to conduct a special election to fill all vacant Branch officer positions. In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. I am also authorizing you, or your designee, to oversee the conduct of the election.

Thank you for bringing this matter to my attention.

ROSEMARY JAMES, POWDER SPRINGS, GA, BRANCH 73

FEBRUARY 26, 2020 (7781)

This is in reply to your letter, dated February 16, 2020, concerning a pending election appeal in Branch 73. According to your letter, the Branch Election Committee has sustained a post-election complaint and ordered a new election. However, that decision has apparently been appealed to the Branch Executive Board. You question the propriety of the Board's review. In addition, your letter raises issues with respect to financial matters in the Branch.

With regard to the election, please be advised that it would be entirely inappropriate for me to comment on any issues which are the subject of a pending appeal. I can provide the following guidance.

Section 21.2 of the NALC Regulations Governing Branch Election Procedures provides that the decision of the Branch Election Committee regarding an appeal may be appealed to the Executive Board by "any aggrieved member." Moreover, previous rulings have consistently held that 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. Nothing in the regulations nor 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, Election Committee members or presidential appointees does not disqualify them. Ultimately, any aggrieved member may appeal the Board's decision to the Branch.

Moreover, prior rulings have held that the re-run election process should not be commenced before the appeal process has been exhausted at the Branch level. The decisions of the Branch Election Committee and the Executive Board do not necessarily constitute the final decision of the Branch. Even if the Board were to affirm the decision of the Committee, a re-run would still be deferred pending any appeals to the Branch. In particular, re-run election ballots should not be mailed until the appeal process is completed at the Branch level.

With regard to the other issues raised in your letter, I am enclosing a copy of a letter to Branch President Phillips advising that I have authorized retired national officer Judy Willoughby to conduct an investigation of Branch 73's finances and governance. Please feel free to discuss your specific issues with Sister Willoughby.

I trust that the foregoing addresses your concerns.

DEXTER BROWN, STONE MOUNTAIN, GA, BRANCH 73

FEBRUARY 26, 2020 (7786)

This is in reply to your letter, received by my office on February 24, 2020. Your letter protests the apparent decision of the President of Branch 73 not to allow a floor vote on reimbursement of convention delegates. Your letter also raises an issue concerning a pending election appeal in Branch 73. According to your letter, the Branch Election Committee has sustained a post-election complaint and ordered a new election. However, that decision has apparently been appealed to the Branch Executive Board. You question the propriety of the Board's review.

With regard to the expense reimbursement issue, I am enclosing a copy of a letter to Branch President Phillips advising that I have authorized retired national officer Judy Willoughby to con-

duct an investigation of Branch 73's finances and governance. Please feel free to discuss your specific issue with Sister Willoughby.

With regard to the election, please be advised that it would be entirely inappropriate for me to comment on any issues which are the subject of a pending appeal. I can provide the following guidance.

Section 21.2 of the NALC Regulations Governing Branch Election Procedures provides that the decision of the Branch Election Committee regarding an appeal may be appealed to the Executive Board by "any aggrieved member." Moreover, previous rulings have consistently held that 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. Nothing in the regulations nor 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, Election Committee members or presidential appointees does not disqualify them. Ultimately, any aggrieved member may appeal the Board's decision to the Branch.

Moreover, prior rulings have held that the re-run election process should not be commenced before the appeal process has been exhausted at the Branch level. The decisions of the Branch Election Committee and the Executive Board do not necessarily constitute the final decision of the Branch. Even if the Board were to affirm the decision of the Committee, a re-run would still be deferred pending any appeals to the Branch. In particular, re-run election ballots should not be mailed until the appeal process is completed at the Branch level.

I trust that the foregoing addresses your concerns.

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

FEBRUARY 27, 2020 (7789)

This is in reply to your letter, dated February 17, 2020, in which you re-

quest guidance as to the application of Articles 10 and 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

Your first question concerns the preparation of the Branch's response to an appeal to the National Committee on Appeals. Article 11, Section 2 of the CGSFB requires that the Branch prepare a response to an appeal from a decision of the Branch and submit both the appeal and response to the Committee.

The Constitution 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 or she cannot prepare the Branch's response. The response must be prepared by a member who supports the Branch's decision.

In such circumstances, any officer who is not supporting the appeal may prepare the response. Alternatively, the response may be submitted by the member or members who submitted the original charge 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 to defend its decision.

As to your second and third questions, Article 10, Section 4 of the CGSFB authorizes the Branch to vote to suspend a member who has been found guilty of a charge. There is no constitutional limit on the length of the suspension that the Branch may impose. However, the severity of any penalty is subject to review by the Committee on Appeals. The Committee has the discretionary authority to reduce the length of a suspension.

In response to your fourth question, Article 10, Section 4 requires a secret ballot vote for certain penalties, namely expulsion, removal from office, and the imposition and amount of a fine. With respect to other possible penalties, a secret ballot is neither required nor prohibited. Thus, it is up to the Branch to decide how the vote is to be taken. A motion to conduct the ballot by secret ballot would, therefore, be in order, so long as there is no controlling provision in the Branch By-laws.

In response to your last question, I appreciate that it is sometimes difficult to find members willing to serve on an investigating committee. I have in the past authorized National Business Agents to appoint investigating committees where the Branch has been unable to do so. This could involve the appointment of members of other Branches. I would certainly be willing to entertain such a request from you.

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 charges or appeal.

**JEANNINE GASPER, NEWPORT
NEWS, VA, BRANCH 609**

MARCH 6, 2020 (7792 & 7798)

This is in reply to your letter, dated February 24, 2020, requesting dispensation permitting the Branch 609 Election Committee to conduct a second mail ballot after appropriate notice to the members. By copy of this letter, I am also responding to an email from Branch Treasurer Jacqueline Shabazz, sent March 3, regarding this matter. It appears that the extension is necessary due to irregularities in the initial ballot.

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 trust that the foregoing addresses your concerns. Please understand that this dispensation is without prejudice to the right of any aggrieved member to initiate a post-election appeal.

**ROBERT CUMMINS, MANCHES-
TER, IL, BRANCH 2210**

MARCH 11, 2020 (7788)

Thank you for your letter, received by my office on March 6, 2020, advising that, sadly, Brother William Harp has passed away. You are now the only member of Branch 2210.

As noted in my previous letter, it is clear that Branch 2210 is now defunct. Unfortunately, it is not possible to honor your request to be declared a member at large. Article 2, Section 2 of the NALC Constitution specifically states that "All

members of the National Association of Letter Carriers shall be affiliated with a Subordinate Branch.” Presidential rulings have, for decades, confirmed that there are no exceptions to this requirement.

Accordingly, by copy of this letter I am directing NALC Secretary-Treasurer Nicole Rhine and the NALC Membership Department to transfer your membership to Branch 309, Alton, Illinois. While I appreciate that Branch 309 is some distance from where you live, the fact remains that Branch 2210 no longer exists and you must be a member of a Branch. Branch 309 is the best option. I am sure Branch 309 will do its best to accommodate any issues you may have.

Thank you for maintaining your membership in the NALC.

PATRICK VAN EGEREN, GREEN BAY, WI, BRANCH 619

MARCH 11, 2020 (7802)

This is in reply to your letter, received by my office on March 6, 2020, requesting guidance concerning the right of a member who retired as a supervisor to attend Branch 619 social functions.

Previous rulings have held that members who retired as supervisors may only exercise the rights accorded supervisory members by Article 2, Section 1(c) of the NALC Constitution:

[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[.]

Thus, a member who retired in supervisory status does not have a right to attend a Branch meeting, except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues. However, the rulings have recognized that Branches may permit a member in supervisory status to attend a Branch meeting as a non-participating guest. The members in attendance are free to allow a supervisory member to attend the meeting as a guest, but are not required to do so.

The rulings have also recognized that Article 2, Section 1(c) does not address whether supervisory members may attend other Branch social functions, such as those described in your letter. Accordingly, the Branch is free to handle this issue at its discretion.

I trust that the foregoing addresses your concerns.

DOUG JAYNES, AURORA, CO

COLORADO STATE ASSOCIATION OF LETTER CARRIERS

MARCH 16, 2020 (7808)

This is in reply to your email, sent March 13, 2020, regarding the possible cancellation of the Colorado State Association Convention. Specifically, you ask whether Branches would be required to conduct new delegate elections if the Convention is postponed to 2021.

So far as the NALC Constitution is concerned, the answer to your question is no. The only pertinent provision of the NALC Constitution is Article 5, Section 4 which requires that election of delegates and alternate delegates to a state association convention must take place “no later than December of the year preceding the convention year.” The Branches will have satisfied this requirement by electing their delegates in 2019, regardless of whether the Convention takes place in 2020 or 2021.

Of course, it is theoretically possible that a Branch could have a provision in its By-laws which is worded so as to require the Branch to conduct a new elec-

tion. Absent such a By-law provision, the Branches can maintain their existing delegates.

I trust that the foregoing addresses your concerns.

PHILIP DUFEK, PHOENIX, AZ, BRANCH 576

MARCH 19, 2020 (7809)

This is in reply to your letter, dated March 9, 2020, requesting dispensation permitting Branch 576 to reopen its nominations for delegates to the 2020 National Convention. According to your email, at least two members who wish to serve as delegates inadvertently failed to sign the delegate nominations list at the Branch’s regular nominations meeting.

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

The Branch 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 a special election of additional delegates.

I trust that the foregoing addresses your concerns.

GEORGE LEE, OAK PARK, IL, BRANCH 608

MARCH 19, 2020 (7813)

This is in reply to your letter, dated March 12, 2020, in which you raise two issues. The first issue, cancellation of Branch meetings due to the Coronavirus situation, has been addressed in my letter to all branches and state associations.

The second issue relates to the right of National Business Agents to attend Branch meetings. I understand that you had concerns with NBA Caref’s attendance at a particular Branch 608 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. Therefore, I would suggest that you maintain an ongoing dialogue with Brother Caref over his attendance at meetings, while recognizing that he is authorized to do so.

Thank you for writing and sharing your concerns.

**MARIO ROMANA, LAKEWOOD, NJ,
BRANCH 1089**

MARCH 23, 2020 (7818)

This is in reply to your letter, dated March 19, 2020, requesting dispensation permitting Branch 1089 to conduct a vote on a proposed merger with Branch 38 by mail ballot. According to your letter, a vote was scheduled for April 1. However, the meeting has been postponed due to the Coronavirus pandemic.

As you recognize, Article 2, Section 3 of the NALC Constitution provides that mergers must be authorized by a majority of members “present and voting” at a Branch meeting. Nonetheless, the extraordinary circumstances which we are all now confronting clearly justify your request.

Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 1089 dispensation to vote on its proposed merger with Branch 38 by mail ballot.

Thank you for promptly bringing this matter to my attention. Please let us know if you need any additional assistance.

MICHAEL WILLADSEN, EAST HARTFORD, CT, BRANCH 86

MARCH 26, 2020 (7820)

This is in reply to your letter, dated March 18, 2020, requesting guidance as to the status of charges recently submitted by two members of Branch 86 in light of the cancellation of the next scheduled Branch meeting.

Your letter was obviously sent before you received my March 18 letter to Branch and State Association presidents. As I stated in that letter, Branches that cancel or postpone meetings have dispensation to defer the processing of charges until their next meeting.

If possible, the Branch may serve the charges on the charged members as required by Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. The charges may be served with a cover letter noting that they will be read and the next meeting that the Branch is able to convene.

I trust that the foregoing addresses your concerns.

VALERIE LASSETER, WAYCROSS, GA, BRANCH 998

MARCH 27, 2020 (7822)

This is in reply to your email, sent March 26, 2020, concerning an apparent dispute over who should currently be recognized as the President of Branch 998. According to your email you were elected Vice President of the Branch and should have assumed the Presidency when the elected President resigned from the Postal Service. However, you were never actually installed as Vice President because the outgoing Branch President believed that you were disqualified from serving because you had counted rural routes within the two years prior to the installation.

At the outset, I cannot rule on this situation based on the limited facts set forth in your email, particularly since I only have your side of the story before me. I can provide the following guidance. Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from 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. 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. An employee who counts rural routes would not necessarily have such authority. In this case, if you were not given supervisory authority by management,

then you would not be disqualified from serving as a branch officer.

In addition, the disqualification provided by Article 5, Section 2 applies only where the member has held, accepted, or applied for a supervisory *position*. A letter carrier who simply performs a supervisory duty assigned by management as light duty would not be disqualified from serving as a branch officer.

Finally, without knowledge of the facts I cannot comment on whether Brother Appling has improperly assumed the presidency of the Branch. Obviously, all branch officers must be elected or appointed in accordance with federal law and the NALC Constitution.

By copy of this letter, I am asking National Business Agent Lynne Pendleton to assist the Branch in resolving the current dispute.

I trust that the foregoing addresses your concerns.

TOM MINSHALL, KALAMAZOO, MI, BRANCH 246

APRIL 2, 2020 (7823)

This is in reply to your letter, dated March 20, 2020, requesting guidance as to the eligibility of a member of Branch 246 to serve as delegate to the National Convention. According to your letter, the member in question may be removed from the Postal Service.

The answer to your question depends on whether this individual remains eligible for membership in the NALC. A non-member cannot serve as a convention delegate.

Under Article 2, Section 1(a) of the NALC Constitution, all “non-supervisory employees of the Postal Service” may be regular NALC members. However, other than retirees and OWCP departees, members who are separated from the rolls of the Postal Service are no longer eligible to maintain regular membership status under Article 2, Section 1. Accordingly, the individual would not be eligible to maintain membership in the union if he is separated from the Postal Service employment rolls. At that point he could not be a delegate.

There are no constitutional provisions addressing whether the Branch may

charge a former member for the cost of a non-refundable airline ticket. The Branch may deal with this question in any manner consistent with its By-laws or any applicable resolutions.

I trust that the foregoing addresses your concerns.

RICHARD SZUKALSKI, NEW BERLIN, WI, BRANCH 397

APRIL 2, 2020 (7824)

This is in reply to your letter to the NALC Executive Council, dated March 8, 2020, in which you allege charges of misconduct against Branch 397 President Dan Wagner.

Please be advised that the NALC Executive Council cannot act on your charges. Charges of misconduct against Branch officers must be brought at the local level, in accordance with Article 10 of the NALC Constitution for the Government of Subordinate and Federal Branches. The Executive Council is authorized to entertain charges only against officers of the National Association or a State Association, as provided by Article 10 of the National Constitution.

In addition, you may contact your National Business Agent's office to discuss any issues relating to the grievance procedure or compliance with the National Agreement.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to express any view as to the merits of any of the matters raised in your charges.

JOHN TRIPLETT, INDIANAPOLIS, IN

INDIANA STATE ASSOCIATION OF LETTER CARRIERS

APRIL 16, 2020 (7834)

This is in reply to your letter, received by my office on April 13, 2020, inquiring whether the Indiana State Association Executive Board needs dispensation from me in order to conduct a video meeting using the Zoom app.

The limited facts set forth in your letter do not indicate that any dispensation is required. The NALC Constitution does not contain any provisions establishing rules or requirements for the meetings of state association executive

boards. See Article 8, Sections 5 and 6 of the Constitution for the Government of State Associations. So far as the Constitution is concerned, the Executive Board is free to schedule meetings in any manner that is consistent with its By-laws.

Dispensation could be required if the State Association By-laws specifically required all Executive Board meetings to be conducted in person. However, your letter does not suggest that there are any relevant restrictions in the By-laws.

Accordingly, you may proceed with the video meeting.

I trust that the foregoing addresses your concerns.

MARCUS BROWN, TACOMA, WA, BRANCH 130

APRIL 28, 2020 (7850)

This is in reply to your letter, dated April 20, 2020, requesting dispensation permitting you to appeal the decision of the President of Branch 130 to remove you from your elected shop steward position. According to your letter, you have not been able to appeal to the members of the Branch because Branch meetings have been canceled due to the coronavirus pandemic.

As you recognize the normal appeal procedure under Article 11 of the Constitution for the Government of Subordinate Branches requires that an appeal from a decision of a branch president be presented to the Branch for decision. The Branch's decision may then be appealed to the National Committee on Appeals. Obviously, this normal process cannot be implemented under current conditions.

Therefore, in order to ensure that your right to a meaningful appeal is preserved, I am exercising my authority under Article 9, Section 1 of the NALC Constitution to grant you dispensation to submit an appeal directly to the National Committee on Appeals. The appeal should be addressed to NALC Vice President Lew Drass, who serves as Chairman of the Committee. Copies of your appeal should also be submitted to the President and Secretary of Branch 130.

By copy of this letter, I am advising Branch 130 that it must submit its reply within twenty days of receipt of the appeal. The reply should be addressed to Brother Drass and a copy must be sent to you. If it is not possible to prepare a reply within twenty days, the Branch may submit a request for an extension of time to Brother Drass.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of your appeal.

MARCUS BROWN, TACOMA, WA, BRANCH 130

MAY 26, 2020 (7881)

This is in reply to your letter, received by my office on May 20, 2020, concerning the situation in Branch 130. . . .

Your letter also requests dispensation to file charges against Sister Smitham under Article 10 of the NALC Constitution for the Government of Subordinate and Federal Branches. Please be advised that such dispensation is not necessary. You may submit charges at any time by mailing them to the Secretary of the Branch. However, please bear in mind that in light of the current pandemic, I have advised all Branches that have cancelled or postponed meetings that the constitutional time limits for processing charges and appeals are extended until the next meeting is held.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of any charges that you may submit.

PHILIP BROWN, ROCKY MOUNT, NC, BRANCH 1321

JUNE 2, 2020 (7885)

This is in reply to your letter, dated May 22, 2020, requesting that I remove the President and Vice President of Branch 1321 from office.

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.

Generally speaking, elected Branch officers cannot be summarily removed from office, as suggested in your letter. 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. 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.

As a member of the Branch, you have the right to submit charges against Brothers Matthewson and McKinnon. This letter should not be read to express any view as to the merits of any such charges. . . .

I trust that the foregoing, at least in part, addresses your concerns.

**LYDIA AMADOR, PASADENA, TX,
BRANCH 3867**

JUNE 25, 2020 (7907)

This is in response to your letter, dated June 17, 2020, requesting dispensation permitting Branch 3867 to use alternative procedures to conduct its nominations and election of officers and delegates.

According to your letter, the Branch By-laws provide for nominations and the election to occur at Branch meetings. Because the Branch has been unable to conduct meetings due to the coronavirus pandemic, it is requesting dispensation to conduct nominations by mail. Officer and delegate nominees would be able to accept a nomination by phone, email or mail. Thereafter, the election would be conducted entirely by mail under reasonable time frames.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. The Branch President should

appoint an election committee to work out all the details and the schedule. The Branch must mail to each member a notice of nominations and election which sets forth all nomination and election procedures. The notice must be sent at least 10 days before nominations are due and at least 45 days before the election. The Branch must comply with the provisions of the NALC Regulations Governing Branch Election Procedures governing mail ballot elections.

I trust that the foregoing addresses your concerns. We very much appreciate the Branch taking the initiative to conduct its election in these difficult circumstances. Please feel free to contact NALC Assistant Secretary-Treasurer Paul Barner if you require any additional assistance in conducting the election.

**AMBER BLANK, WILMINGTON, NC,
BRANCH 464**

JUNE 25, 2020 (7908)

This is in reply to your letter, dated June 17, 2020, regarding the recent election of officers in Branch 464.

Your letter requests dispensation to extend the terms of the new officers since the election and installation were delayed due to the coronavirus pandemic. Under the terms of the Branch By-laws, the present terms would end in April 2023, which is less than the three years otherwise provided by the By-laws.

Please be advised that dispensation from me is not necessary. The Branch may amend its By-laws to change the dates for nominations, the election, and subsequent installation to provide a three year term for the current officers. Such an amendment would be constitutionally permissible in this case because it would not represent an extension of the present terms beyond the three years already provided in the By-laws.

I trust that the foregoing addresses your concerns.

**TERRY DANIELS, THORNTON, CO,
BRANCH 642**

JUNE 30, 2020 (7913)

This is in reply to your email, sent June 25, 2020, in which you raise several is-

issues pertaining to charges that have apparently been filed in Branch 642.

It would be inappropriate for me to comment on the specific allegations set forth in your email, particularly since I only have your side of the story before me. The following discussion is intended to provide general guidance regarding the procedural matters raised in your email.

Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires that charges be filed with the Branch and that a copy of the charges be served on the charged member. There is no requirement that the charges be filed at a Branch meeting, although they can be.

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

The Constitution does not contain any provision indicating who should read the charges at the Branch meeting if the recording secretary is not present. In that instance, it would be the responsibility of the Branch President (or whoever else is acting as chair of the meeting) to designate an officer or member to read the charges. The chair could designate the charging party to read the charges, but is certainly not required to do so.

As to the content of the charges, Article 10, Section 2 of the CGSFB states:

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

While specificity is required by the Constitution, prior rulings have recognized that this does not mean that charges are invalid unless stated in exhaustive detail. I cannot comment on whether the charges described in your email meet the constitutional standard.

The rulings have also noted that it is up to the investigating committee and the Branch to apply the above-stated principles to the facts of the case. The committee may very well conclude that the charges, as written, are insufficient to state a violation of the Constitution. However the investigating committee may not rely on any such conclusion to avoid completing its investigation and reporting to the Branch. The committee may communicate its opinion as to the sufficiency of the charges to the members. But the members must be given the opportunity to vote on the charges.

A claim that charges are insufficient on their face may be raised as a defense by the charged party before the committee and the Branch. The other issues raised in your email may also be presented to the committee and the Branch.

Your email contains several questions pertaining to the hearing procedure. Article 10, Section 3 of the CGSFB provides that the investigating committee is to “summon the parties” and to hear and record the testimony and documentary evidence presented by them. All parties are “entitled to be heard by the committee, to present evidence, and to cross-examine all witnesses who make statements to the committee.” This means that both the charged and charging parties have the right to attend the hearing and to cross-examine each other as well as witnesses produced by the other side. It is up to the committee to decide who else may attend the hearing.

You also ask how the committee could proceed if witnesses refuse to attend a hearing. This question appears hypothetical for now. Nonetheless, I will answer your question in general terms.

Article 10, Section 3 guarantees the parties the right “to cross-examine all witnesses who make statements to the committee,” but goes on to state specifically that “rules of evidence and rules of judicial procedure need not be observed.” Normally, cross-examination of witnesses is conducted face-to-face. However, the committee has discretion to develop reasonable procedures to address particular problems, such as

those raised by the ongoing coronavirus pandemic. This could include allowing witnesses to testify by telephone, as suggested in your email.

Ultimately, it is the responsibility of the committee to “find the true facts and report to the Branch.” If the committee believes that it can conduct telephonic hearings without undermining the committee’s ability to “find the true facts,” and without compromising any party’s right of cross-examination, then it may do so.

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. 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.

In response to your final question, previous rulings have recognized that the phrase “disinterested members” means that the members appointed to the committee must be disinterested with respect to all charges they are responsible for investigating. Quite obviously, the charging or charged parties may not be appointed to the committee. Similarly, any officer or member who is likely to be involved in the investigation as a witness should not be appointed. The rulings also indicate that a member who files separate charges against the charged or charging parties would be disqualified from serving on the investigating committee.

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

**JERRY KERNER, JR., TOWSON, MD,
BRANCH 176**

JULY 2, 2020 (7914)

This is in reply to your email, sent June 28, 2020...

With regard to the issue of collecting

dues from members in non-pay status, please note that Article 7, Section 3(b) of the NALC Constitution for the Government of Subordinate and Federal Branches states that a Branch may exempt any member from dues payments under reasonable rules uniformly applied for a stated period of time. Thus, for example, a Branch could adopt a policy providing that members will be exempt from dues payments while on workers compensation or leave without pay. Previous rulings have recognized that Branch action under Article 7, Section 3(b) may result in a waiver of back dues.

I trust that the foregoing addresses your concerns.

**RAMON MALDONADO, JR., VINE-
LAND, NJ, BRANCH 534**

JULY 2, 2020 (7915)

This is in reply to your letter, dated June 25, 2020, requesting that I appoint Sister Kory Ann Bates to serve as President of Branch 534. According to your letter, the incumbent President has stepped down to become a 204b supervisor. You are the Vice President, but you do not wish to serve as President.

Please be advised that the result you seek may be accomplished without intervention by the National Union. 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, because the President of Branch 534 has resigned, you are now the President. As President, you may appoint Sister Bates to serve as Vice President. You would then have the option of resigning as President so that Sister Bates can become President as provided by Article 6, Section 2 of the CGSFB. She, in turn, could reappoint you as Vice President, so long as there is no con-

flicting provision in the By-laws.

I appreciate that the process I have described is cumbersome. But it is consistent with the Constitution and should be followed.

I trust that the foregoing addresses your concerns.

TONY BOYD, SAN ANTONIO, TX, BRANCH 421

JULY 14, 2020 (7925)

This is in reply to your letter, dated July 8, 2020, requesting dispensation permitting Branch 421 to conduct its nomination of delegates to the Texas State Association Convention and its nomination of Branch officers by Zoom. The nomination of delegates would take place at the Branch's September 20 meeting, and the nomination of officers would be conducted at the October 8 meeting. Voting will be by secret ballot, mailed to all members.

Your request is certainly reasonable in light of the ongoing coronavirus pandemic. 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.

Please make sure that an appropriate and timely notice of the procedures to be followed in nominating and electing delegates and officers is sent by mail to all members of the Branch.

I trust that the foregoing addresses your concerns. Thank you for addressing this issue.

BRIAN WIGGINS, MILL CREEK, WA

WASHINGTON STATE ASSOCIATION OF LETTER CARRIERS

JULY 14, 2020 (7926)

This is in reply to your email, sent July 9, 2020, concerning the inability of the Washington State Association of Letter Carriers to conduct its annual convention due to the ongoing coronavirus pandemic. As a result, the State Association has not been able to adopt a new budget to replace the budget that expired June 30.

In order to address this situation, your email requests dispensation permitting the Washington State Associa-

tion Executive Board to conduct a virtual meeting to put in motion the essential items which would allow it to function until the state convention to be held in 2021. I assume from your email, that the Executive Board would authorize necessary expenditures of funds.

Your proposal certainly appears reasonable and is actually consistent with the NALC Constitution. Article 8, Section 5 of the Constitution for the Government of State Associations (CGSA) provides in pertinent part:

In conjunction with the President, [the Executive Board] shall have general supervision and control of the Association during recess. They shall act as Trustees of this Association and in every way carry out the interests of this Association.

Article 8, Section 5 also empowers the Board to "examine all bills [and] approve the same if found correct."

Therefore, in light of the facts set forth in your email, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please keep in mind that Article 8, Section 6 of the CGSA requires that all formal action by the Board during recess of the State Association must be recorded and reported to the membership in the next issue of any existing State publication.

I trust that the foregoing addresses your concerns. Thank you for bringing this matter to my attention.

B.J. HANSEN, SEATTLE, WA, BRANCH 79

JULY 14, 2020 (7927)

This is in reply to your letter, dated July 2, 2020, requesting dispensation permitting Branch 79's nominations and acceptances to be submitted by mail, rather than at a Branch meeting as provided by the By-laws. This alternative process would be used if the Branch is unable to conduct its September and October meetings due to the pandemic.

Your letter also requests that the Branch officers be authorized to retain an outside agency to conduct the election itself.

Your request is certainly reasonable in light of the ongoing coronavirus pandemic. 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.

Please make sure that an appropriate and timely notice of the procedures to be followed in nominating and electing officers and delegates is sent by mail to all members of the Branch.

I trust that the foregoing addresses your concerns. Thank you for addressing this issue.

SEAN GEACKEL, SOUDERTON, PA, BRANCH 920

JULY 14, 2020 (7928)

This is in reply to your letter, dated July 8, 2020, requesting dispensation permitting Branch 920 to conduct its nomination of officers and delegates by certified mail if it is unable to hold its regular nominations meeting in October. Voting will be by secret ballot, mailed to all members. You also request dispensation permitting the Election Committee to count the mail ballots if the November election meeting is cancelled.

Your request is certainly reasonable in light of the ongoing coronavirus pandemic. 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.

Please make sure that an appropriate and timely notice of the procedures to be followed in nominating and electing officers and delegates is sent by mail to all members of the Branch.

I trust that the foregoing addresses your concerns. Thank you for addressing this issue.

LYNNE PENDLETON, REGION 9

JULY 22, 2020 (7933)

This is in reply to Dexter Lester's email, sent July 15, 2020, concerning the pending charges filed by Tia Hill against Branch 321 President Philip Skipper. By copy of this email I am also responding to an email from Sister Hill, sent July 15, concerning the same matter. It appears from both emails that no members of the Branch are willing to

serve on a committee to investigate the charges.

According to Sister Hill, her charges relate to Brother Skipper's attempt to remove her as steward in the Gulf Breeze, Florida Post Office. If that is the case, it may be that the appropriate process would have been to file a direct appeal to the Branch under Article 11 of the Constitution for the Government of Subordinate and Federal Branches, rather than charges under Article 10. However, without firsthand knowledge of the facts, I can't make any final judgment as to how to proceed.

Therefore, I am directing you to assign a representative from your office to investigate this situation. Your representative is authorized to assist the parties in resolving their dispute informally, if possible, or arranging for a direct appeal to the Branch in lieu of the charges, if that is appropriate. However, if following the investigation you determine that Sister Hill's charges must be processed, please appoint a committee of three disinterested members from other Branches to investigate the charges and prepare a report to the Branch.

Thanks to all for bringing this matter to my attention and for your anticipated cooperation.

**BRIAN DEWELL, SPRINGFIELD, OH,
BRANCH 45**

JULY 28, 2020 (7934)

This is in reply to your letter, dated July 13, 2020, requesting dispensation permitting Branch 45's nominations and election to be conducted by mail. According to your letter, the Branch By-laws do not provide for mail ballot elections.

Section 6.3 of the NALC Regulations Governing Branch Election Procedures (RGBEP) provides that nominations are to take place at a Branch meeting unless the Branch By-laws allow nominations to be submitted in writing. Similarly, Section 11.7 of the RGBEP provides that Branch elections must be conducted at a regular or special meeting, unless the Branch By-laws provide for a different voting method. Accordingly, Assistant Secretary-Treasurer Paul Barner's advice that dispensation would be required to

conduct nominations and the election by mail was correct.

Your request is certainly reasonable in light of the ongoing coronavirus pandemic. 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.

Please make sure that an appropriate and timely notice of the procedures to be followed in nominating and electing officers and delegates is included in the notice to be published in The Postal Record.

I trust that the foregoing addresses your concerns. Thank you for addressing this issue.

**ESTHER MARTINEZ, HAYWARD,
CA, BRANCH 1707**

JULY 28, 2020 (7935)

This is in reply to your letter, dated July 13, 2020, requesting dispensation permitting Branch 1707 to conduct all Branch meetings virtually.

Your request is certainly reasonable in light of the ongoing coronavirus pandemic and the Branch's difficulty in achieving a quorum at its meetings. 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.

Please make sure that an appropriate and timely notice of the procedures to be followed in conducting meetings is provided to all active and retired members.

I trust that the foregoing addresses your concerns. Thank you for addressing this issue.

**TERRY DANIELS, THORNTON, CO,
BRANCH 642**

JULY 28, 2020 (7936)

This is in reply to your email, sent July 23, 2020, in which you raise several issues pertaining to the apparent decision of the President of Branch 642 to suspend you from your steward position. According to your email, the President had previously filed charges against you seeking your removal, but

the Branch, after sustaining the charges, voted merely to reprimand you.

As I stated in my previous letter to you, it would be inappropriate for me to comment on the specific allegations set forth in your email, particularly since I only have your side of the story before me. The following discussion is intended to provide general guidance regarding the removal or suspension of stewards.

It is primarily the responsibility of the Branch President to enforce the obligations of other officers and stewards. Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that the Branch President shall have "general supervisory powers over the Branch" and the authority to "see that officers perform their duties [and] enforce the Constitution, By-Laws, Rules and Regulations of the Branch." In addition, under Article 6, Section 1 of the CGSFB, the Branch President is designated Chief Shop Steward. The President, therefore, retains the ultimate authority to supervise other stewards in the performance of their duties.

The ability of the Branch President to remove shop stewards is determined by the manner of steward selection. If the Branch's stewards are appointed to office by the Branch President, the President may remove a steward for good and sufficient cause. If, however, the shop stewards are elected by the members of each respective station, then the President may remove for good cause only if the Branch has made a specific provision for such removal in its By-Laws. In the case of shop stewards elected by the entire Branch, the stewards must be treated as regular Branch officers. Consequently, they cannot be removed without complying with the specific procedures set forth in Article 10 of the CGSFB.

Beyond the foregoing, 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.”

In response to your specific questions, please be advised of the following.

First, there is no particular process that must be followed to relieve a steward of representational duties or functions. Accordingly, I have no basis for commenting on the text message described in your email by which you were apparently informed of your suspension.

Second, previous rulings have recognized that a Branch President may invoke Article 6, Section 1 on his/her own initiative, subject to the provisions described above. Whether or not the President’s action here was precluded by the Branch’s decision regarding the charges is an issue which, in the first instance, must be resolved by the Branch itself.

Finally, the question whether the President of the Branch properly exercised his/her constitutional authority in suspending a steward would depend on the particular facts presented and the exact nature of the President’s actions. Any such decision by a Branch President is subject to direct appeal to the Branch under Article 11, Section 1 of the CGSFB. The appeal must be presented at the

next scheduled meeting of the Branch. The members of the Branch must then vote on the appeal. Their decision may be appealed to the National Committee of Appeals in accordance with the procedures provided by Article 11, Section 2 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 your appeal.

DAVID GAGNON & ROBERT PRESTON, EAST HARTFORD, CT, BRANCH 86

JULY 31, 2020 (7929)

This is in reply to your letter, dated July 6, 2020, requesting dispensation permitting you to use alternative procedures to resolve your pending election appeal in Branch 86. According to your letter, the appeal has been considered and denied by the Branch Executive Board. However, you have not been able to appeal the Executive Board’s decision to the members of the Branch because Branch meetings have been canceled due to the coronavirus pandemic.

As you recognize, the normal appeal procedure under Section 21.3 of the NALC Regulations Governing Branch Election Procedures provides that an appeal from a decision of the Branch Executive Board must be presented to the

next scheduled meeting of the Branch for decision. The Branch’s decision may then be appealed to the National Committee on Appeals. Obviously, this normal process cannot be implemented under current conditions.

I am not inclined to grant your request that I order the Branch to conduct a referendum mail vote on your appeal. Therefore, in order to ensure that your right to a meaningful appeal is preserved, I am exercising my authority under Article 9, Section 1 of the NALC Constitution to grant you dispensation to submit an appeal directly to the National Committee of Appeals. The appeal should be addressed to NALC Vice President Lew Drass, who serves as Chairman of the Committee. Copies of your appeal should also be submitted to the President and Secretary of Branch 86.

By copy of this letter, I am advising Branch 86 that it must submit its reply within twenty days of receipt of the appeal. The reply should be addressed to Brother Drass and a copy must be sent to you. If it is not possible to prepare a reply within twenty days, the Branch may submit a request for an extension of time to Brother Drass.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of your appeal.