

National Association of Letter Carriers

June 22, 2012

Fredric V. Rolando
President

100 Indiana Ave., NW
Washington, DC
20001-2144
202.393.4695
www.nalc.org

Timothy C. O'Malley
Executive Vice President

George C. Mignosi
Vice President

Jane E. Broendel
Secretary-Treasurer

Nicole Rhine
Asst. Secretary-Treasurer

Lew Drass
Director, City Delivery

Manuel L. Peralta Jr.
Director, Safety & Health

Myra Warren
Director, Life Insurance

Brian E. Hellman
Director, Health Insurance

Ernest S. Kirkland
Director, Retired Members

Board of Trustees:

Larry Brown Jr.
Chairman

Randall L. Keller
Michael J. Gill

Dorothea Poe, Secretary
NALC - Branch 1414
P.O. Box 4224
Bremerton, WA 98312

Re: File No. 12-6302

Dear Sister Poe:

The Committee of Laws has reviewed the proposed By-Laws of the Kitsap Peninsula Branch 1414, Bremerton, Washington, and finds that they do not conflict with the National Constitution with the following exceptions.

Article II, Section 2 of the proposed By-Laws, which provides that four elected officers and four members in good standing shall constitute a quorum for the transaction of business at a branch meeting, conflicts with Article 3, Section 4 of the Constitution for the Government of Subordinate and Federal Branches which requires that Branch meetings may only be called to order if a quorum is present. A quorum is a specific minimum number of Branch members, designated in the By-Laws, which is sufficient to convene a Branch meeting and conduct Branch business. The Constitution does not authorize the Branch to invalidate a branch meeting -- regardless of how many members are present -- merely because no officer bothered to attend.

Article III, Section 1 of the proposed By-Laws conflicts with Article 4, Section 1 of the Constitution for the Government of Subordinate and Federal Branches in that the proposed By-Law does not provide for the election of a separate Health Benefits Representative and Sergeant-At-Arms as the Constitution requires. 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 may handle the duties assigned to the officers listed in the Constitution. Accordingly, the Branch By-Laws must explicitly consolidate each office which the Branch wishes to forgo with one of the other elected branch offices. (See Article 4, Section 3 of the Constitution for the Government of Subordinate and Federal Branches.)

Article III, Section 1 of the proposed By-Laws provides for the election of a chief steward. Be advised that pursuant to Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches, the branch president serves as chief steward. The authority to delegate this responsibility, should the Branch president so choose, should not be taken from him or her. Accordingly, a separate "chief steward" should not be elected.

Article III, Section 1 of the Branch By-Laws, which provides for a Board of Trustees comprised of six members, conflicts with Article 4, Section 1 of the Constitution for the Government of Subordinate and Federal Branches. The size of the Branch Board of Trustees must be either three or five members to be in conformance with Article 4, Section 1 of the Constitution for the Government of Subordinate and Federal Branches, which requires that the Board of Trustees be "composed of either three or five members." This provision is not merely a guideline, but sets a strict numerical requirement.

The Branch By-Laws should be amended, in accordance with the requirements of Article 15, in order to comply with the NALC Constitution. However, the change should not take effect until the next regular election of the branch when the term of office for the current Trustees ends.

It would be permissible for the branch to create "Alternate Trustees" as elective positions. Alternate Trustees may be authorized to act only in the absence of the Trustees.

Article III, Section 7: The power given to the Executive Board to authorize payment of Branch funds may not usurp the right of the Branch membership to determine how it will appropriate its funds: under the Constitution, no appropriation of Branch funds may be made except when ordered by a majority vote of the members present and voting at a regular Branch meeting. (Article 12, Section 3 of the Constitution for the Government of Subordinate and Federal Branches.)

Article III, Sections 7 and 8 of the current Branch By-Laws, which provides for the Executive Board to appoint the Board of Trustees, conflicts with Article 4 of the Constitution for the Government of Subordinate and Federal Branches. Article 4, Section 1 of the Constitution for the Government of Subordinate and Federal Branches lists the required officers of a branch and includes a Board of Trustees composed of either three or five members. Article 4, Section 2 of the Constitution for the Government of Subordinate and Federal Branches, in conformance with federal law, requires that the officers be elected. Therefore, it is impermissible for the Board of Trustees to be appointed; the Trustees must be elected by the branch membership.

Article IV, Section 3 of the By-Laws, which provides that Branches may make provision to permit officers to spend a certain sum of money between Branch meetings in cases of emergency, is ineffective to grant the officers such discretion unless the By-Laws specify what sum the branch intends to authorize. Article 12, Section 3 of the Constitution for the Government of Subordinate and Federal Branches specifically requires that the "certain sum" be specified in the By-Laws.

With regard to Article X, Section 6 of the current Branch By-Laws, previous presidential rulings have held that a nominee's name must appear on the election ballot unless the nominee has withdrawn his/her nomination prior to the close of the nomination meeting or in writing less than five days after the nomination meeting. It would be inappropriate to remove a candidate from the ballot who has otherwise been properly nominated. The Branch should amend this section to conform with these rules.

Article X, Section 9: The reference to "biannual" elections in Article [], Section [] of the By-Laws should more properly read "biennial." Biannual means twice yearly; "biennial" means every other year.

Article X, Section 10 of the current Branch By-Laws, which concerns the rescinding of an appointment of a branch officer by the president, conflicts with Article 10 of the Constitution for the Government of Subordinate and Federal Branches. Previous presidential rulings have held that a branch officer cannot be removed from office unless he/she has been found guilty of charges in accordance with the procedures set forth in Article 10 of the Constitution for the Government of Subordinate and Federal Branches. Therefore, the branch president does not have the authority to rescind an appointment.

Article XI, Section 1 of the proposed By-Laws, which appears to provide that the Branch shall determine the number of delegates it will send to conventions, may be improper if its effect is to restrict the number of delegates to the National Convention for which Branch members may cast votes below the ratio of 1:20 set forth in Article 4, Section 1 of the NALC National Constitution. The Branch may not deny interested candidates the opportunity to run for the full number of unfunded delegate positions to which the Branch is entitled. Of course, if there are fewer candidates than positions the Branch need not send a full delegation; moreover, the Branch has sole discretion to determine how many of its elected delegates it will fund.

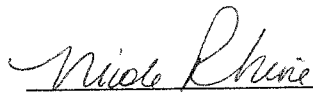
Article XI, Section 2 of the proposed By-Laws, which provides that shop stewards will serve automatically as delegates, conflicts with Articles 4 and 5 of the NALC National Constitution which, in conformance with federal law, require that NALC's convention delegates be elected by the general membership of the branch.

Article XI, Section 2 of the proposed By-Laws, which provides that certain elected officers shall be convention delegates by virtue of their offices, is permissible provided that officers were each elected pursuant to the NALC Election Regulations. Please note, however, that both the notice of election and the election ballot used for the election of those officers should specify that they will also serve as convention delegates.

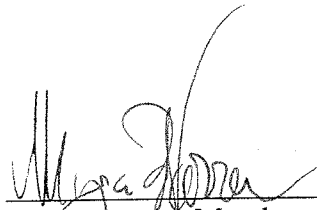
Article XII, Section 1 of the proposed By-Laws, which regards amending the By-Laws, omits the requirements set forth in Article 15 of the NALC National Constitution that suitable notification to members must be made at least ten days before any regular meeting at which a vote on an amendment is to be taken, and that proposed By-Laws be approved by the Committee of Laws.

With the above noted exceptions, and inasmuch as it is the wish of your membership, the proposed By-Law amendments are approved.

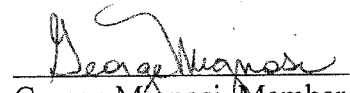
Sincerely and fraternally,



Nicole Rhine, Chairperson
Committee of Laws



Myra Warren, Member
Committee of Laws



George Mignosi, Member
Committee of Laws

NR/jt

Enclosure