

National Credit Union Administration
Supporting Statement

**Appeals Procedures
That Do Not by Law Require a Board Hearing
12 CFR Part 746, Subpart B
OMB No. 3133-NEW**

The NCUA Board (Board) proposes procedures to govern appeals to the Board that would apply to agency regulations that currently have their own embedded appeals provisions and will replace those current provisions. New part 746, subpart B, will govern most authorized appeals to the Board of adverse determinations made at program office levels under agency regulations that permit such an appeal. The proposed rule would also amend existing NCUA regulations to include a cross-reference to the procedures contained in subpart B.

A. Justification

1. Circumstances that make the collection of information necessary

The Board is committed to providing credit unions, and other persons or entities that are affected by agency decisions, with an opportunity to obtain meaningful review of those decisions. At present, procedures for obtaining that review are embedded in and scattered throughout NCUA's regulations and, in many cases, are slightly different from one another. For example, time frames for seeking higher level review may differ and deadlines within which final agency action is to be rendered may also be different. In this proposal, the Board has developed a more uniform set of procedures to govern those rules in which an appeal to the Board is permitted. The Board seeks to strike a balance that will afford the appellant fair consideration of the issues while avoiding procedures that are overly burdensome, time consuming, and expensive for either the petitioner or the agency.

The Board is issuing this proposed rule pursuant to authority granted to it by secs. 120, 207, and 209 of the Federal Credit Union Act.

2. Purpose and Use of the Information

The proposed procedures would apply to federal credit unions (FCUs), federally insured, state-chartered credit unions (FISCUs), or certain institution affiliated parties (IAPs) such as officers or directors when appealing an adverse agency determination under one of the rules to which proposed part 746, subpart B would apply.

Under proposed §746.203, an entity or person (petitioner) may make a written request to the appropriate program office to reconsider the initial agency determination. This request must be sent within 30 calendar days of the date of the initial agency determination, with certain specific exceptions.

Under proposed §746.204, a petitioner may file an appeal seeking review of the determination by the Board within 60 calendar days of the date of the initial agency determination, or, as applicable, a determination by the program office on any request for reconsideration, with certain specific exceptions. The request must be in writing and filed with the Secretary of the Board.

The proposed procedures are intended to result in greater efficiency, consistency, and better understanding of the way in which matters under covered regulations may be appealed to the Board.

3. Consideration Given to Information Technology

The rule does not specify or require a particular format or formality in terms of how an appeal or request for reconsideration must be submitted. For example, documentation may be submitted via regular mail or an overnight delivery service; alternatively, an electronic transmission of an appeal or reconsideration request would be effective.

4. Efforts to Identify Duplication

The collection of information is unique to the circumstances of each credit union. The information is self-generated and is not available from any other government agency or other source.

5. Effect on Small Entities

This collection does not have a significant impact on a substantial number of small credit unions. This proposed rule only provides enhanced voluntary opportunities for credit unions to appeal adverse agency determinations.

6. Consequences of Not Conducting this Collection

If the information collection was not conducted, the NCUA would not be able to provide uniform procedures for appeals to the Board under affected agency regulations. Thus, proceeding with this collection will help ensure that appellants receive appropriate due process and that agency decisions are made in a prompt and efficient manner.

7. Inconsistent with Guidelines 5 CFR §1320.5(d)(2)

The collection of information is conducted in a manner consistent with the guidelines in §1320.5(d)(2).

8. Consultations Outside of the Agency

A notice of proposed rulemaking was published on June 7, 2017, at 82 FR 26378, soliciting comments from the public, including the information collection requirements. Comments

received in response to the information collection requirements contained in this rule will be addressed in the final rulemaking.

9. Payment or Gift to Respondents

No payment or gift to respondents are made.

10. Assurance of Confidentiality

There is no assurance of confidentiality other than that provided by law.

11. Questions of a Sensitive Nature

No personally identifiable information (PII) is collected.

12. Estimated Burden of Information Collection

Sec.		Number of Respondents	Annual Frequency	Annual Responses	Hours per Response	Total Annual Burden Hours
746.203	<i>Request for Reconsideration.</i> Petitioner makes written request to the appropriate program office to reconsider the initial agency determination	24	1	24	10	240
746.204	<i>Appeal to the Board.</i> Petitioner files an appeal seeking review of the determination by the Board.	10	1	10	20	200
Total				34		440

Annualized cost to respondents, based on an hourly wage rate of \$35, is \$15,400.

13. Estimates of Capital Start-up and Maintenance Costs

There are no capital start-up or maintenance costs.

14. Costs to the Federal Government

NCUA estimates that, on average, approximately 100 employee-hours will be spent in the review and processing of an appeal, while the review and processing of a request for reconsideration will take, on average, approximately 45 employee-hours. The wage rate for the processing is approximately \$50 per hour. Thus, total cost to NCUA for handling an appeal is \$5,000, and \$2,250 for a request for reconsideration. Aggregate annual cost for the 34 anticipated responses is \$104,000.

15. Change in Burden

This is a new collection. The rule proposes to consolidate the information collection requirements of the informal appeals process under this new part; as such, NCUA intends to remove the burden allocated to the appeals process currently under OMB control numbers 3133-0141, -0127, -0114, -0117, -0133, and -0138, upon promulgation of this new rule, and requests a new OMB control number for the information collection requirements under part 746.

16. Plans for Publication

Each appeal to the Board results in a written Board Decision and Order, a redacted version of which is typically posted to NCUA's website.

17. Request Non-display of the Expiration date of the OMB Control Number

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal Government's electronic PRA docket at www.reginfo.gov.

18. Exceptions to the Certification for the Paperwork Reduction Act Submission

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.