

## **INTRODUCTION TO AGENCY FEE REQUIREMENTS**

Agency fee is built on the premise that non-members who benefit from the representation provided by the bargaining unit through collectively bargained agreements should pay their fair share for the benefits they receive.

Agency fee procedures are mandated by case law. Courts constantly balance the First Amendment right of fee payers to act and speak individually against the First Amendment right of union members to associate and speak collectively. CTA will notify locals of any changes in procedures necessitated by future court decisions.

Senate Bill 1960 allows public employee unions to collect agency fees from non-members without having to bargain an agency fee provision into the local's contract. Employers are required by the bill to deduct agency fees from non-members upon notification by the exclusive representative.

From court decisions based on the interpretation of the United States Constitution and from law written into the Educational Employment Relations Act (EERA), unions may not spend the agency fees of non-members, over their objections, for certain "non-representational" activities. Non-representational activities are considered "non-chargeable" to objecting fee payers; conversely, representational activities are considered "chargeable."

Fee payers must be informed of the union's estimate of the cost of chargeable and non-chargeable activities and be provided an opportunity to both object to non-chargeable expenditures and to challenge that calculation in an arbitration. Fee payers who object to such expenditures are entitled to have their agency fee reduced, or to receive a rebate, in an amount proportionate to those non-chargeable expenditures.

The agency fee provision may be rescinded if 30% of the bargaining unit employees petition for an election and a majority of the bargaining unit employees vote for the rescission. Only one such election may be held during the collective bargaining agreement term. If rescinded, the agency fee provision may be reinstated if 30% of the bargaining unit signs a petition for reinstatement of the agency fee provision and a majority of the bargaining unit employees vote for reinstatement. The petitioning party must pay for the reinstatement election costs. A rescinded agency fee provision may also be reinstated through negotiations with the employer.

### **AGENCY FEE RESPONSIBILITIES**

The exclusive representative shall provide annual written notice to each non-member:

- 1) The amount of the exclusive representative's dues and agency fees.
- 2) The percentage of agency fee that is attributable to chargeable expenditures, a financial report and an adequate explanation of chargeable and non-chargeable expenditures (the "Hudson notice");
- 3) If requested, a refund of that portion of the fee equal to the proportion of non-chargeable expenditures;
- 4) A reasonably prompt opportunity to challenge the chargeable and non-chargeable calculation before an impartial decision-maker (the "agency fee arbitration"); and
- 5) Notice that agency fees are escrowed until payment is made or the time period for making the request has passed (the "local escrow account").

If your local does not currently collect agency fees but is considering implementation, you should first determine if the local's chargeable and non-chargeable expenditures meet CTA Agency Fee Policy requirements. Locals should not implement agency fee until they comply with all requirements including submitting all required documents to the CTA Membership for approval.