

THE NEBRASKA ASSOCIATION OF PUBLIC EMPLOYEES
AFSCME LOCAL 61
Membership Rights Assistance Policy

I. Preamble

The Nebraska Association of Public Employees, AFSCME Local 61 is dedicated to the protection of individual and collective employment rights. When representation is requested or required involving investigations, litigation, grievances, contract disputes and the appropriate action to preserve those rights, the available resources of the union will be utilized.

Stewards may be contacted for advice and assistance. NAPE/AFSCME retained staff and legal counsel will assist stewards when deemed necessary by the Executive Director or designee.

No individual will be discriminated against on the basis of race, religious creed, national origin, sex, sexual preference, age, marital status, political affiliation, mental or physical disability.

II. Eligibility

- A. The union recognizes its responsibility to represent non-members in represented bargaining units, in the same manner as it represents members; however, non-members will be required to pay actual costs, including but not limited to filing fees, deposition costs, court costs, transcription costs, arbitrator/hearing officer fees and expenses, legal fees and legal services, subject to the provisions of this policy.
- B. When represented by NAPE/AFSCME, union members who are in good standing prior to the “initial” event or activity involving the employee which may cause an investigation of the employee and may or may not lead to discipline; or prior to the “initial” event or activity involving the employee which causes a violation of the contract, policy or law which precipitates the grievance and maintain their good standing throughout the grievance process will not be required to pay for costs which includes but not limited to filing fees, deposition costs, court costs, transcription costs, arbitrator/hearing officer fees and expenses, legal fees and legal services.
- C. When represented by NAPE/AFSCME, individuals who are not a member of NAPE/AFSCME prior to the “initial” event or activity involving the employee which may cause an investigation of the employee and may or may not lead to discipline; or prior to the “initial” event or activity involving the employee which causes a violation of the contract, policy or law which

precipitates the grievance; or a member that fails to maintain their good standing, shall be required to pay actual costs, including but not limited to the filing fees, deposition costs, court costs, transcription costs, arbitrator/hearing officer fees and expense, legal fees, and legal services. The above costs shall be in addition to the member's regular dues.

Example: On January 1st the employee is involved in an event or activity. The employer has knowledge of this event or activity on March 1st. An investigation begins on April 1st. The employee receives discipline on May 1st. The initial event or activity began on January 1st.

Example: You are driving a vehicle without insurance and you are involved in an accident. You buy insurance after the accident. You are not covered because the accident was prior to the purchase of the insurance.

- D. A deposit for such fees, costs and expenses shall be paid in advance to the union, prior to the scheduling of each step and succeeding steps of the process as indicated in the member's labor agreement. The deposit shall be held in escrow pending completion of the process. The union shall deduct appropriate fees and expenses of representation from the deposit and refund any remaining funds to the individual represented. If the deposit was not sufficient, any additional costs above and beyond shall be billed to the grievant.
- E. If the individual represented described in paragraph C above, wishes to initiate the grievance process, the individual shall submit a deposit in the amount of \$100.00 by check or money order, made payable to NAPE/AFSCME Local 61.
- F. If the individual represented described in paragraph C above, wishes to appeal a grievance to the next step of the process indicated in the member's labor agreement, the individual shall submit a deposit in the amount of \$500.00 by check or money order, made payable to NAPE/AFSCME Local 61. If the amount of the deposit is not sufficient, the union reserves the right to require an additional \$500.00 deposit to continue the representation.
- G. If the individual represented described in paragraph C above, wishes to have the grievance appealed to Arbitration or to the State Personnel Board or as indicated in the individuals labor agreement, the individual shall submit a deposit in the amount of \$3500.00, by check or money order, made payable to NAPE/AFSCME Local 61. If the amount of the deposit is not sufficient the union reserves the right to require an additional \$3500.00 deposit to continue the representation.

III. Reasons for Representation

- A. In areas of dismissal or disputes involving contract administration, grievance assistance and/or legal assistance may be provided where facts show that rights under the Labor Contract, Personnel Rules and Regulations of the employer or applicable law and statutes have been violated and representation is necessary or desirable to protect the rights of all members.
- B. In areas of collective rights and negotiations, representation may be provided when such is required to obtain fulfillment of the statutory and contractual rights of a bargaining unit and its members.
- C. Representation shall not extend to cases involving discrimination, workers compensation, unemployment compensation or cases where conflicts of interest adversely impact other bargaining unit members.

IV. Reasons for Denial of Representation

- A. The member or grievant/appellant or bargaining unit retains an attorney without the consent of NAPE/ AFSCME or does not wish to accept the services of a NAPE/ AFSCME retained representative.
- B. The requested service is personal to the member or grievant/appellant and does not relate to job security, contract maintenance, or collective rights under the Labor Contract, Personnel Rules and Regulations or applicable law.
- C. The facts of the case cannot be supported by competent evidence and it is determined not to have merit or could potentially damage the rights of all members.
- D. The case involves support of a position contrary to the purpose of NAPE/ AFSCME.
- E. The member/unit or grievant/appellant rejects a settlement proposal or other settlement of the case as recommended by the NAPE/AFSCME representative, or otherwise fails to fully cooperate with NAPE/ AFSCME or the NAPE/ AFSCME retained representative.
- F. The member/unit or grievant/appellant falsifies information or refuses to provide requested information to the union.

- G. The member/unit or grievant/appellant fails to meet his or her obligations to pay for all fees, costs and expenses stemming from the grievance process pursuant to Section II, Eligibility, of the Membership Rights Assistance Policy and related guidelines.

V. Request for Legal Review – Court Action

- A. All requests for legal action (except arbitration) shall be in writing. Cases involving employee dismissal will only be processed via the grievance procedure.
- B. Except in cases involving arbitration, the Executive Director is authorized, with advice from union Legal Counsel, to determine if legal assistance shall be provided. The decision shall be made within five (5) calendar days of receipt of the request and the member notified in writing. If the request is denied, the member shall be informed of the appeals procedure.
- C. Recommendations to arbitrate shall be made in writing by the appropriate staff member after consultation with the grievant and the steward. Such recommendations may be appealed in accordance with the Appeals Committee procedures.

VI. Appeals Committee

- A. The Appeals Committee shall be comprised of members of NAPE/AFSCME. The Chair of the Appeals Committee shall be elected by the Board of Directors to serve a two year term and the chair shall appoint members to the Appeals Committee.
- B. The Board of Directors will receive results of appeal hearings from the Chair of the Appeals Committee, or their designee, at each board of directors meeting.

VII. Appeals Hearing Procedure

- A. If a member or grievant/appellant does not agree with the decision to deny representation, a written request for appeal shall be submitted to the Executive Director of NAPE/AFSCME within ten (10) calendar days of receipt of denial letter. Within five (5) calendar days, the Executive Director shall forward the appeal to the Chair of the Appeals Committee or renew representation.
- B. The Chair of the Appeals Committee shall hold a hearing of the Appeals Committee to make a final determination on whether to pursue the action

with representation. The hearing shall be scheduled as soon as the committee can meet.

- C. The duty of each individual member of the Appeals Committee is to determine if and when a conflict exists. If an unanticipated conflict becomes apparent during the hearing, the member(s) shall excuse themselves from further participation. For purposes of this provision, conflict does not necessarily exist if the member or grievant/appellant and the Appeals Committee are from the same agency. Members of the Appeals Committee who believe they have a conflict of interest must inform the Chair of the conflict prior to the hearing and not attend the hearing.
- D. At the hearing the member or grievant/appellant representative may present the rationale for appeal. The Executive Director, Staff Representative, or Legal Counsel for NAPE/ AFSCME may then present the rationale for denial of representation. The Appeals Committee shall have the right to ask questions at the conclusion of the presentation of either party or at the conclusion of all presentations.
- E. The Appeals Committee may call for an executive session to discuss the testimony and vote.
- F. The decision of the Appeals Committee shall be final.

VIII. Access to Retained Representation and/or Legal Counsel

Only through following the above detailed procedures shall the union be responsible for representation fees incurred by any member or grievant/appellant.

IX. Time-Line – Court Action

All time lines may be extended by mutual consent of the parties involved. However, some cases must be filed in a timely fashion and all time extensions must be based on this consideration. In some cases appeals will be filed in order to preserve time lines; such cases shall be subject to representation withdrawal under the above policy.

X. Judicial Procedure

The members of the Appeals Committee shall serve as members of the local Judicial Committee and follow the NAPE/AFSCME Local 61 Constitution Article X Judicial Procedure.