

THE NEBRASKA ASSOCIATION OF PUBLIC EMPLOYEES
AFSCME LOCAL 61

Membership Rights Policy

Updated & Approved - December 8, 2018

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 action is needed 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 be discriminated against on the basis of race, religious creed, national origin, sex, sexual orientation, age, marital status, political affiliation, mental disability, 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, arbitration/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 maintains their good standing throughout the grievance process will not be required to pay for costs **including**, but not limited to, filing fees, deposition costs, court costs, transcription costs, arbitration/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, filing fees, deposition costs, court costs, transcription costs, arbitration/hearing officer fees and expense, legal fees, and legal services. The above costs shall be in addition to the member's regular dues.

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 individual's 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 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.
- D. Representation may be provided at anytime in order to comply with time limits, but may be denied at a later date based on the reasons below.

IV. Reasons for Denial of Representation

- A. The member or non-member 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 non-member 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 are not supported by the evidence, 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 or non-member 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 or non-member falsifies information or refuses to provide requested information to the union.
- G. The member or non-member 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 shall be in writing. Cases involving employee dismissal will only be processed via the grievance procedure.
- B. The Executive Director is authorized 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. Denials of arbitration requests 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. Committee members shall be appointed by the chairperson of the NAPE/AFSCME Board of Directors and approved by the board. The committee chair shall be selected following the procedures listed in the NAPE/AFSCME Local 61 bylaws.
- B. The Board of Directors will receive results of appeal hearings from the Chair of the Appeals Committee, or his or her designee, at each board of directors meeting.

VII. Appeals Hearing Procedure

- A. If a member or non-member 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 meeting of the Appeals Committee to make a final determination on whether to pursue the action with representation. The meeting shall be scheduled as soon as practicable.
- C. At the meeting the member or non-member, or his or her representative, may present the rationale for the appeal. The Executive Director or designee may then present the rationale for the denial of representation. The Appeals Committee shall have the right to ask questions at anytime when recognized by the committee chair.
- D. The Appeals Committee may move into executive session in accordance with the local bylaws.
- E. The decision of the Appeals Committee shall be final.