

Service fee payers notice, 2017-2018

MEMORANDUM

TO: All Fair Share Fee Payers
FROM: AFT Local 2121, CFT/AFT, AFL-CIO
DATE: September 5, 2017

In May, 1987, San Francisco Community College District faculty voted for the implementation of an "agency shop" under the collective bargaining agreement between AFT Local 2121 and the District. As the exclusive bargaining agent for academic employees, AFT Local 2121 incurs significant costs representing you, whether or not you are a union member. For this reason, you are required as a condition of employment, either to join AFT Local 2121 and pay union dues, or pay a "fair share fee" or agency fee, as it is also called, as described in this notice. The agency fee process is created in statutes enacted by the California Legislature (see Government Code section 3546), and the collection of agency fees has been found "constitutional" in decisions by the United States and California Supreme Courts. The fair share fee is paid by faculty who are not Union members, to the Union, because the Union is legally responsible for representing you.

The agency fee amount is calculated by the Union and regularly audited by an independent auditor. The agency fee is deducted by the District from the salary or wages of the faculty member in the faculty bargaining unit who does not become a member of and financially support AFT Local 2121. The fair share fee is used to defray the costs incurred by Local 2121 in fulfilling its duty to represent the faculty in their employment relations with the District, and shall not exceed the membership dues and general assessments of Local 2121.

However, as we explain, any non-member of the Union making agency fee payments to the Union under the agency shop provision shall have the right to object to the expenditure of any part of the agency fee which represents the employee's pro rata share of non-chargeable expenditures by the Union. Non-chargeable expenditures are defined below under "Allocation Procedures" on page 2 of this notice, and generally involve expenditures in aid of activities or causes

of a political or ideological nature unrelated to terms and conditions of employment, or members-only benefits.

AFT Local 2121 has set the "fair share fee" at 100% of the annual dues paid by members. **The current union dues rate is 1.5% of all District earnings. Therefore, the service fee rate for 2017-2018 is 1.5%, or .015 of all District earnings.** We do not anticipate an increase in the dues rate during this school year. However, in the event of such an increase, you would be informed of the corresponding increase in your service fee rate through a faculty bulletin. Service fee payers will pay the full amount unless you request that non-chargeable amounts not be included in your fair share fee, as explained below.

You may (1) request a refund of the non-chargeable portion of the service fees paid by you this academic year, and/or (2) challenge the local's determination of the percentage of its expenditure that is chargeable and non-chargeable, and upon which your reduced service fee is based.

You must inform the local of your request and/or objection within 30 days after the date of this notice. Your request and/or objection must be in writing, and if you challenge the chargeable amount, you must set forth the basis of your challenge to the union's determination. During the first 30 days after the notice is issued, the local will place into an interest-bearing escrow account any service fees collected from fee payers. After the 30 day challenge period, the local will continue placing into escrow the service fees collected from those payers who have filed challenges to the determination, pending the outcome of the appeals procedure. During the appeal, any challenge may also be settled or resolved by either a settlement between the objector and the union, by withdrawal of the objection, or by the union refunding the objected amount, plus interest, and agreeing to reduce future fees for the applicable year accordingly. After the close of the period for filing challenges to the basis for the local's calculation of service fees, the local will submit all of the objections for a prompt hearing before a neutral arbitrator, unless the objection was previously settled or resolved.

A copy of the union's service fee refund/appeal procedure appears below on pages 3-4 of this notice. If you have any questions, please contact us at: 311 Miramar Ave., San Francisco, California, 94112. Our telephone number is (415) 585-2121.

Of course, we hope that you choose to join and gain a voice in the Union. As a member you would become part of an organization representing faculty and other professionals throughout the country. You would be able to participate in Union meetings, vote on contracts, serve on Union committees, and be instrumental in assisting yourself and your colleagues. Member benefits would accrue to you as well, including Professional Liability Insurance coverage at no cost to you, and access to our credit union and to consumer discounts. You may join by filling out and sending to us an AFT 2121 Membership Application, which appears below. If you do not join, then the fair share amount will be deducted from your monthly paychecks.

Your fair share fees, together with union dues, provide the means by which the Union can protect and advance the professional and economic interests of all of the advance the professional and economic interests of all of the employees that it represents. One of the most valuable of these Union services is negotiation of the contract that governs your earnings (and other economic benefits) and the conditions under which you work. Your fees and union dues pay the costs of these negotiations, including the staff work and legal, economic and educational research necessary to develop the union's program on your behalf. Collective bargaining and protecting employees' rights under the contract require year-round activity by the union officers and staff and by volunteer union members. Further, since many of your working conditions and benefits, as well as the resources available to fund school operations, are governed by legislation, this local and the state and national federations with which it is affiliated monitor the legislative process and lobby where necessary to protect your interests.

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In recognition of the principle that non-members should pay their fair share of obtaining and maintaining the benefits of union representational activities, the California State Legislature has approved the deduction of fair share fees from the wages of public employees who are not union members. Collection of fair share fees has been approved by the Supreme Court and by the courts of California.

Government Code section 3546 provides that the cost of lobbying activities designed to foster collective bargaining negotiations and contract administration, or to secure for the represented employees advantages in wages, hours, and other conditions of employment in addition to those secured through meeting and negotiating with the employer are chargeable as agency fees. Such activities are considered as chargeable under this procedure.

A small percentage of the budget of this local, and of the state and national organizations with which it is affiliated (the California Federation of Teachers, and the American Federation of Teachers, AFL-CIO) may be used in relation to issues and legislation only incidentally related to the terms and conditions of employment or other chargeable matters, or applied towards the cost of benefits available only to union members. These expenses are not chargeable to service fee payers.

Attached you will find a breakdown of total Union expenses and the portion of Union expenses that is "non-chargeable" to service fee payers based on the law, and based on our expenditures in 2015-2016, along with the report on the local's chargeable and non-chargeable breakdown prepared by our auditor, Lindquist, LLP, Certified Public Accountants. Enclosed you will also find the chargeable and non-chargeable breakdown of fiscal year expenses for the American Federation of Teachers, AFL-CIO, and the California Federation of Teachers, AFL-CIO, and their independent auditors' verifications prepared respectively by Calibre CPA Group, and Miller, Kaplan, Arase & Co., LLP. In

accordance with this breakdown, we estimate that 24.88% of Union expenses are "non-chargeable."

For details of the Local's chargeable and non-chargeable allocation procedure, see below:

ALLOCATION PROCEDURES

1. Affiliation fees. The Local's affiliation fees to the California Federation of Teachers (CFT) and the American Federation of Teachers (AFT) are allocated at the percentage rates of chargeable and non-chargeable expenses reported by each organization. Both the CFT and AFT reports are attached. Affiliation fees to the California Labor Federation, AFL-CIO, the San Francisco Labor Council, AFL-CIO, and the San Francisco Organizing Project are deemed non-chargeable expenses of the Local.

2. Salaries and benefits of paid professional/clerical staff. All paid professional and clerical staff complete time sheets [known as activity reports] indicating the services they provided. The attached activity reports indicate how we make allocations between chargeable and non-chargeable expenditures. The hours of each staff member is computed, and the chargeable percentage determined from these reports. Benefits consist of such things as health and welfare, pension plans, vacation, and sick leave. They are calculated at the same percentage as time.

Any other presumptions used in making computations or allocations are indicated in the notes to the statement.

3. Legal expenses incurred in representing the union and members of the unit in grievances and arbitrations, unfair labor practices, court or administrative litigation, investigating, researching and attempting to resolve issues which involve the rights of unit members are fully chargeable. Litigation directly related to maintaining the union's existence is chargeable.

4. Negotiations. This category records only the expenses of printing contracts, contract proposals and counter-proposals, incidental meeting costs, data

compilation, research, compilation and analysis for negotiations, costs of negotiations, caucuses and planning sessions, and is fully chargeable.

5. Grievance and arbitration.

This category records only the costs of grievances and arbitrations, including arbitration fees, court reporters, transcripts, messengers, and other out-of-pocket costs and is fully chargeable.

6. Publications. This category records only the costs of printing the Local's union literature. Direct printing and publishing expenses are allocated based on the specific content of articles in publications. Anyone may review the publications file, which indicates the allocation. Articles related to the Union's role as collective bargaining agent, information about faculty retirement issues, education issues, professional information, professional development, job opportunities, teaching methods, professional information and the like are chargeable. Articles dealing with political action, ideological issues and AFT member services are non-chargeable.

7. Faculty Calendars is non-chargeable since they were provided only to Local members.

8. Contributions involves support of organizations and activities only incidentally related to the terms and conditions of faculty employment and is deemed non-chargeable.

9. Membership meetings, conventions, conferences, workshops, training meetings and similar activities is chargeable with the exception of expenses for member-only services. This is true even if the meetings, etc. were not devoted solely to the business of the union. Meeting expenses include transportation, lodging, food, and registration costs incurred by Local delegates while attending conferences and workshops.

10. Financial audit includes the fees of the Certified Public Accountant who performs the yearly audit of the Local's financial records and prepares the Local's fiscal year financial report and

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statement of chargeable and non-chargeable expense. It is fully chargeable.

11. Escrow services includes fees of the escrow agent who sets up and controls service fee deposits to and disbursements from the escrow account. It is fully chargeable.

12. Service fee notifications includes the cost of reproduction and distributing the notification of service fees each school year to fee payers. It is fully chargeable.

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13. Executive Board expenses is chargeable, unless otherwise indicated in the notes. It includes transportation (airfare or auto), food, lodging, and conference registration costs incurred by Executive Board members attending meetings on behalf of the Local. These meetings include: union governance meetings and conventions, workshops sponsored by faculty organizations, the Local's Executive Board meetings or with District Governing Board members.

14. Indirect expenses. In *Cumero v. King City Joint Union School District* PERB Dec. No. 197, 6 PERC 13065 (1982), the PERB held that the "operating costs of the exclusive representative cannot reasonably be separated from its representational services. Rent, utilities, stationery, salaries and other costs of doing business provide the very means by which such services may be carried on. To deny the organization the right to apply service fees in meeting such costs would at once burden members with the exclusive obligation to support services beneficial to nonmembers ..." Nevertheless, it has been decided to allocate the expenses here on the same percentage as total direct expenses of the Local. The Local reserves the right, in the event of any challenge to its allocations, to use the "cushion" provided here to offset any alleged computational/allocation error in any other category.

15. Lobbying and legislative activities. Lobbying the school board that is directly related to ratifying or implementing a collective bargaining agreement, or to make changes in working conditions or other academic or professional matters involving the district is chargeable. Where the district, the State Chancellor's office, Department of Education or other public agency seeks the AFT Local 2121's help in bringing about a legislative change that would affect the district's powers or resources on matters within the scope of union representation or consultation, such time and expenses are chargeable. Lobbying activities designed to foster collective bargaining negotiations and contract administration, or to secure for the represented employees advantages in wages, hours, and other conditions of employment in addition to those secured through meeting and negotiating with the employer. Other lobbying activities are treated as nonchargeable. Expenditures for lobbying activities designed to secure funds for public education in general are nonchargeable.

16. Public relations. Publicizing the Union's position in collective bargaining and contract administration is chargeable. Other communications addressed to the general public are considered as non-chargeable. Expenditures in the public relations area which are directly related to negotiations of contracts, including the influence of public officials and the public generally concerning the issues of a collective bargaining agreement and contract administration, are considered chargeable. Informational picketing, media exposure, posters and buttons related generally to public education and the teaching profession, and not to the Association's position on collective bargaining and contract administration are considered non-chargeable. Expenses for picketing, media exposure, posters, buttons and strike preparation materials are considered chargeable as are any actual costs of work actions.

NON-MEMBER FAIR SHARE FEE REFUND/APPEAL PROCEDURE

I. FILING OBJECTIONS TO FAIR SHARE FEE DETERMINATION

Each year, the Local shall send a notice to non-members informing them of its determination of fair share fees. This notice shall include a detailed written explanation showing what permissible expenditures, including collective bargaining and contract administration, are anticipated, based upon expenditures made during the previous year. The explanation shall also set forth a projection of anticipated expenditures which are not within the permissible areas of expenditure. These projected expenditures, expressed as a percentage of the total budget derived from dues, assessments, and fair share fees, shall be identified as the "non-chargeable percentage." The breakdown of expenditures shall be verified by a Certified Public Accountant.

The fair share fee charged to non-members shall be equal to the amount of membership dues. Non-members who wish to (1) reduce their fee by the non-chargeable percentage and/or (2) challenge the Union's calculation of the non-chargeable amount must inform the Union of their challenge within thirty (30) days after the date of the notice. The notification must be in writing, directed to the president of AFT Local 2121, and must set forth the basis for the challenge.

II. ESCROW ARRANGEMENTS

The Local shall establish an interest-bearing escrow account separate from all other union funds in which to deposit fees as set forth below. The union shall furnish terms of the escrow account upon request.

All fees of all non-members received within 30 days of

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the notice of fee determination shall be escrowed until 30 days after the date of this notice. Once the 30 day appeal period has passed the following procedures shall be followed:

1. At the close of the 30 day period, all fees escrowed on behalf of non-members not filing objections shall be removed from escrow and remitted to the Local.

At this point, the only money remaining in escrow will be the service fees collected from non-members who have filed timely appeals.

2. During the pendency of the appeals procedure described in Section III, the Union shall continue to place in escrow all fees collected from non-members who have filed appeals, except for those objections withdrawn, settled or resolved.

III. APPEALS PROCEDURE

Step 1. Within thirty (30) days after the close of the period for filing objections under Section I of this Procedure, the Union shall request a prompt hearing before an impartial arbitrator of all objections filed in timely fashion, unless the objection of any objector is withdrawn, settled, or resolved by refunding the disputed amount, plus interest, and agreeing to no longer charge for the disputed amount.

Step 2. The Union shall within 45 days of the last day for filing an objection to the chargeable determination, and upon receipt of any employee objection(s), shall request a prompt hearing regarding the agency fee before a single impartial arbitrator selected by the American Arbitration Association (AAA) or California State Mediation and Conciliation Service. Selection of the arbitrator and conduct of the arbitration shall be in accordance with the applicable rules of the AAA if AAA is utilized. The fee and any expenses of the arbitrator shall be paid by the Union. Fee payers who file appeals will be responsible for paying the costs of their own representation,

and their incidental costs (e.g., including, but not limited to, transcripts, document reproduction, transportation, lodging and meals). Any party may request a consolidated hearing of multiple fee objectors based on case similarities, including but not limited to hearing location. At any time prior to the hearing, any party may make a motion to the impartial decision maker challenging any consolidation of the hearing. Prior to the hearing, the objection may be withdrawn, or resolved by settlement or by the Union refunding the disputed amount, plus interest at the prevailing rate, and agreeing to not charge for the disputed amount for the remainder of the appropriate year at issue.

IV. ARBITRATOR'S AWARD

The arbitrator shall issue a written decision, based on the evidence and relevant provisions of the collective bargaining agreement and the law, determining whether the fair share fee was appropriately calculated and, if not, what the appropriate calculations should have been. The arbitrator shall have no power to grant a remedy to persons who have not filed for arbitration. The applicable escrow funds and the interest accrued thereon shall be disbursed pursuant to the award.

As of the date of the arbitrator's decision, and thereafter, the fair share fee of all non-members who filed an appeal during the

30 day appeal period shall be adjusted to coincide with the decision, except for those objections withdrawn, settled or resolved.

If the objection of the individual(s) requesting arbitration is withdrawn, is settled by an agreement between the Union and said individual(s), or is resolved by refunding and agreeing to not charge for said objectionable amounts during the remainder of the year at issue, then escrowed funds and interest accrued thereon shall be disbursed pursuant to Union instructions issued in accordance

with the settlement or resolution achieved.

Attached are: AFT 2121 Staff Activity Reports.

ATTACHMENT 'A'

ACTIVITY REPORT: AFT 2121 EXECUTIVE DIRECTOR

REPRESENTATION WORK

1. COLLECTIVE BARGAINING: Selecting and preparing bargaining team, preparing proposals and responses, research, information to faculty, reports to Executive Board, legal consultation, negotiations sessions, faculty ratification meetings, rallies/demonstrations, picketing, work-site visits and meetings with faculty, presentations to Governing Board and lobbying, media work, distribution of Union contract to faculty.

2. CONTRACT ENFORCEMENT AND PROBLEM-SOLVING: grievance-handling, arbitration and investigation of complaints; advocacy for faculty on health, dental, and retirement benefits; legal consultation and research; conferences with faculty members and District administration; work-site visits and meetings with Building Reps; monitoring District Governing Board actions, budget hearings, etc.

3. PUBLICATIONS: preparation of bulletins, negotiation updates, and Local's newsletter: writing, editing, soliciting articles, planning meetings, lay-out, printing, distribution.

4. LEGAL CASES: meetings with attorneys and faculty members; investigating and compiling facts of cases; representing faculty in unemployment benefit hearings and appeals.

5. OFFICE MANAGEMENT: Planning meetings with staff, officers, and volunteers on work schedules and prioritization of tasks; inventory and

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ordering of supplies; filing system and reports and mailing labels from member and fee payer data base; record-keeping including staff time sheets and activity reports, use of material resources and office machines; dues and fees collection and reports internal office mail: announcements, agendas, and Minutes preparation and distribution for Executive Board, membership, and committee meetings; legal defense grants.

6. FINANCES: per capita payments to affiliates, payroll records and taxes, budget and financial reports, bookkeeping, payment of bills.

7. UNION OFFICERS ELECTIONS AND CONSTITUTIONAL

BYLAWS REVISIONS: preparing internal union elections: mail ballots, working with election committee and volunteers, preparation and distribution of election materials to Union embers, counting of ballots and mail-out of results.

8. UNION MEETINGS: preparation and distribution of announcements, agendas reports, and Minutes for Executive Board, Union delegates/ reps, membership and committee meetings; presentation of staff reports; follow-up on resolutions.

9. SERVICE FEE

ADMINISTRATION: preparation of materials for audit and report on chargeable/nonchargeable expenses for service; preparation and distribution of service fee notification; handling of service fee challenges and conscientious objections.

10. MEMBERSHIP

RECRUITMENT: Organizing union membership recruitment campaigns: preparation of literature, faculty lists, planning meetings coordination work of Union reps, etc.

11. MEMBERSHIP SERVICES:

providing information to members and prospective members on AFT member services including: credit union, travel agency, insurances, consumer discounts, legal consultations; inventory, ordering, and distribution of

AFT calendars and pamphlets for members services.

12. CONFERENCES: providing information to faculty about and attending National, State, and Local AFT conventions, workshops; attending AFL-CIO Labor Council meetings and activities.

13. COMMITTEE ON POLITICAL EDUCATION (COPE): preparation of mailings to COPE members, COPE recruitment, work on local and state elections and legislative campaigns, lobbying of local and state public officials and legislators.

Union officers elections and referendums on Constitutional and By-Laws revisions; preparation of mail ballot, election materials and results of mail ballots and elections.

ATTACHMENT 'B'

ACTIVITY REPORT: AFT 2121 OFFICE CLERK

1. OFFICE MANAGEMENT:

planning meetings with Executive Director on work schedules/prioritization of tasks; inventory/ordering office supplies; filing; computer file maintenance; internal mail distribution; preparing staff time sheets and activity reports; phone answering: taking messages, making referrals, problem solving - STRS, fringe benefits, contractual rights; editing, typing, sending and filing correspondence for Union representatives and Executive Board members.

2. DUES/FEES PROCESSING:

billing cash members; processing new member applications; member status reports to Executive Board; communications with dues/fee payers; monitoring dues/fees; preparation of national AFT and CFT per cap reports; handling of faculty payroll deduction problems.

3. PUBLICATIONS: Union flyers and publications: writing, editing, production and faculty mailbox distribution; bulk and first class mailings.

4. UNION MEETINGS, CONFERENCES AND

ELECTIONS: membership meetings preparation and mailing of announcements, resolutions and minutes; conference organization;