

INFORMATION FOR PRIVATE-SECTOR MEMBERS

Your Rights with Respect to Union Representation, Union Security Agreements, and Agency Fee Objections

Prepared by the Pennsylvania State Education Association

INTRODUCTION

The Pennsylvania State Education Association (“PSEA”) and its affiliated local associations represent school and healthcare employees throughout Pennsylvania. We are pleased that you are a member of PSEA and can enjoy the many benefits of membership. Because you are a private sector employee, we are providing you with this notice to advise you as to our duties as a labor organization, your rights as a member or a nonmember of PSEA, and your rights and obligations with respect to payment of an agency fee, should you opt not to become a member.

We look forward to working with you and your colleagues to help you obtain fair wages, safe working conditions, and job security.

FAIR REPRESENTATION

The _____ (“Local Association”), an affiliate of PSEA and the National Education Association (“NEA”), was selected, through the democratic processes provided by the National Labor Relations Act, as the exclusive bargaining representative for a unit of employees at your workplace that includes your position.

The Local Association, supported by PSEA and NEA, negotiates and enforces the collective bargaining agreement with your employer that sets the terms and conditions of employment for all employees in the bargaining unit, including for your position. A copy of your Local Association’s collective bargaining agreement is available from your Local Association representative.

Your Local Association elects a president and other officers who assist and represent bargaining unit members like you. As well, PSEA staff members, known as UniServ Representatives, who are specially trained in bargaining and enforcing collective bargaining agreements, are located in region offices throughout the state to assist in representation and bargaining for affiliated local associations. Both your Local Association officers and your PSEA UniServ Representative can answer questions related to bargained-for terms and conditions of employment, and can help you understand your rights and benefits under your collective bargaining agreement.

If you believe your contractual rights are violated, or if you are called to an investigatory interview by your employer, you should contact one of your Local Association officers for assistance. Your Local Association officers and/or PSEA UniServ Representative will help you

by gathering all the facts related to your issue, identifying relevant contract language and past practices, and making recommendations for next steps. Your Local Association representative and/or PSEA UniServ Representative can accompany you to any investigatory interview if you have a reasonable expectation of discipline.

With respect to contractual violations, we will first try to assist you by addressing and resolving issues with the employer on an informal basis. If an issue cannot be handled informally, the first step in securing a remedy is filing a grievance. Where a grievance is not resolved through discussions with management, the dispute must be resolved by a neutral arbitrator. The Local Association, with the assistance of PSEA, will determine whether to process a grievance to arbitration based on the merits of each claim. If arbitration is pursued, the Local Association can request that PSEA assign an attorney to represent the Local Association, and you as the grievant. PSEA attorneys regularly provide representation at arbitrations under the terms of the PSEA Legal Services Policy. You, as a grievant, do not bear any of the expenses of arbitration.

UNION MEMBERSHIP

Your Local Association, PSEA, and NEA have unified membership. This means that, as a member, you can join and participate at all levels of the organization. PSEA has a membership of over 181,000 active and retired education and healthcare employees in Pennsylvania, and NEA has a membership of over 3 million employees throughout the United States. Through these organizations, your fellow employees come together to improve their terms and conditions of employment and protect their rights on the job. Within these organizations, all decisions are made democratically, either by members at local association meetings or by members' elected representatives at conventions and executive board meetings. The officers of your Local Association, PSEA and NEA are nominated and elected by the members at membership meetings.

You have the right to join the Local Association, PSEA, and NEA, and to fully participate in the affairs of these organizations. The rights of members are spelled out in the constitution and bylaws of the Local Association, PSEA, and NEA. These documents are available from your Local Association representative.

You also have the right not to join the Local Association. If you do not join, you will nevertheless be fairly represented as required by law. The duty of fair representation owed by your Local Association to all persons in the bargaining unit means that your Local Association, with the assistance of PSEA and NEA, will bargain a collective bargaining agreement that does not discriminate on the basis of membership, and will enforce that collective bargaining agreement for both members and nonmembers alike. If you chose not to join the Local Association, however, you will not have the right to participate in the election of the officers who represent you on the job, to participate in meetings where decisions of the Local Association are made, including contract ratification, or to enjoy all the other benefits of membership including access to discounted vendors and products, legal services outside of collective bargaining matters, liability insurance in employment, and financial assistance with respect to any allegations of criminal conduct or child abuse arising in the course of your employment.

UNION SECURITY AGREEMENTS

Negotiating and enforcing collective bargaining agreements comes with some costs. To spread these costs fairly, private sector employees who do not join the Local Association, PSEA, and NEA but who still benefit from the collective bargaining agreement can be required to pay an agency fee to maintain their employment, if such a requirement is contained in your workplace's collective bargaining agreement.

These provisions are known as Union Security Agreements. These clauses are not uniform in their wording, but no provision can require anything more than payment of an agency fee to retain employment.

AGENCY FEES

Many private sector labor unions establish agency fees that are equivalent to membership dues, but your agency fee will be a percentage of PSEA dues reflecting only the expenditures that PSEA annually makes on activities or projects germane to collective bargaining, contract administration, and grievance adjustment.

PSEA's practices regarding agency fee comply with the decisions of the National Labor Relations Board and the courts which held that unions must allow agency fee payers to object to the payment of fees to support activities not directly related to the core representational responsibilities of collective bargaining, contract administration, and grievance adjustment.

The following summarizes those practices:

1. Where the collective bargaining agreement contains a union security clause, bargaining unit members who chose not to join the Local Association, PSEA and NEA will be charged an amount equivalent to a percentage of membership dues reflecting only the expenditures that the Local Association and PSEA annually make on activities or projects germane to collective bargaining, contract administration, and grievance adjustment. The chargeable percentage will include expenditures related to negotiations with employers, enforcing collective bargaining agreements, informal meetings with employer representatives, discussion of work-related issues with employees, handling employees' work-related problems through the grievance procedure, administrative agencies, or informal meetings, and aspects of union administration. In the past, approximately 70-75% of PSEA's expenditures have supported such activities. In the 2017-2018 year, 74% of PSEA's expenditures have supported such activities.

Among other things, agency fee payers are not charged for charitable activities, lobbying or other legislative activities, support of political candidates, participating in political events, recruitment of members to the labor organization, and members-only benefits (including members-only social events). In the past, approximately 25-30% of PSEA's expenditures have supported such activities. In the 2017-2018 year, 26% of PSEA's expenditures have supported such activities.

2. Each year, the Local Association and PSEA will provide a notice to you as to the amount of the fee, along with a full explanation as to the calculation of the fee. That explanation will include a more detailed list of the categories of expenditures deemed to be “chargeable” and those deemed to be “nonchargeable,” along with audited financial statements showing the expenditures on which the fee is based. Each year, agency fee payers will have the option of challenging the calculation of the reduced fee by filing an objection with PSEA, following the instructions contained in the notice. The objection will be resolved by an impartial arbitrator appointed by the American Arbitration Association, and your agency fee will be held in escrow until the decision is rendered. In addition, agency fee payers with conscientious religious objections to financially supporting a labor organization can notify PSEA of their objection and arrange to make a charitable contribution equal in amount to agency fee, instead of paying the agency fee.