

A GUIDE TO
FAIR SHARE PROCEDURES

Table of Contents

Purpose	3
<i>I. Notice</i>	5
Notice of the Right to Become an Fair Share Payer	5
Who Must Receive Notice	5
Content of Notice	5
How and When to Provide Notice of the Right to Become an Fair Share Payer	6
Post-Notice Issues	6
<i>II. The Union’s Financial Duty to Objectors</i>	7
The Union’s Duty to Separate Expenses	7
Adequate Disclosure	7
<i>III. Preparing the Fee Report</i>	8
Nonchargeable Activities	8
Chargeable Activities	8
Allocating Combined Expenses between Chargeable and Nonchargeable	9
Verification of the Fee Report	10
Local Presumption	10
Independent Auditor	11
<i>IV. Objection Procedures</i>	12
Notification	12
Union Grievance Procedures	12
Annual Open Periods	12
Length of Open Period	12
Continuing Objections	12
Appeals/Arbitration	13
Consolidating Multiple Challenges	13
<i>V. Union Response to Objection: Fee Reduction, Escrow and Advance Rebate</i>	12
Rebating Nonmember Dues	14
Advance Reduction of Fee	14
Escrow	14
Advance Rebates	14
Union May Waive Fee Obligation to Avoid Accounting Costs.	15
<i>AFTERWORD</i>	16
Consultation with Counsel	16
<i>APPENDIX A</i>	17
Fair share Checklist	17
<i>APPENDIX B</i>	19
Questions and Answers	19
<i>APPENDIX C</i>	21
Sample Beck/Hudson Notice	21
<i>APPENDIX D</i>	21
Sample Statement of Allocation Between Chargeable and Nonchargeable Expenses	21
<i>APPENDIX E</i>	22
Sample Fair Share Payer Objection Policy	22

Purpose

Agency fee, or fair share fees are the amounts of money paid by nonunion members of the bargaining unit to cover the union's costs of representing them. In the public sector, the right of an individual to become a fair share payer, as opposed to a full member, is rooted in the First Amendment of the U.S. Constitution as well as similar provisions in certain state constitutions. The courts have held that under the First Amendment fair share payers are not obligated to pay that portion of their dues which are used for ideological or political purposes. Fair share payers are only required to pay their share of the costs generally associated with collective bargaining and contract administration. Employees in the private sector have similar, but not identical rights. These rights are grounded on the duty of fair representation as well as, in certain circumstances, the U.S. Constitution. In fact, the legal analysis applied to public sector employees has its origins in the private sector. In the past three decades, cases decided by the U.S. Supreme Court and the National Labor Relations Board (NLRB) have provided unions with detailed instruction on how to administer and report fair share fees. We have prepared this fair share guide in response to questions posed by AFT locals around the country concerning these rulings.

The first section of this guide, *Notice*, provides information concerning who must receive notice of fair share rights, as well as related issues such as the content of the notice and how and when to provide notice.

The next section, *The Union's Financial Duty to Objectors*, deals with the responsibility of the union to separate expenditures into chargeable and nonchargeable categories in order to satisfy the requirement of providing full financial disclosure of the fair share calculation to objectors.

The third section, *Preparing the Fee Report*, defines and provides examples of chargeable and nonchargeable expenses, details areas where expenditures do not fall neatly into either category, and further explains the verification process.

The fourth section, *Objection Procedures*, examines the procedures a local must implement to handle challenges to the union's fair share calculation.

The fifth section, *Union Response to Objection: Fee Reduction, Escrow and Advance Rebate*, explores the options available to the locals in responding to fair share objectors.

The appendices to this guide give the local an easy to follow breakdown of fair share procedures beginning with *Appendix A, Fair Share Procedure Checklist*. *Appendix B, Questions and Answers* responds to some of the most commonly asked questions regarding fair shares. *Appendix C* is a sample letter of how a local should respond to a fee reduction request. Finally, *Appendices D and E* provide samples of the Hudson/Beck Notice and the statement of expenditures separating nonchargeable expenses from chargeable expenses.

With a few exceptions, which are noted herein, public and private sector AFT locals have the same legal obligations to fair share payers. Therefore, we make no distinctions in this guide between locals that represent members under the National Labor Relations Act and those that represent members pursuant to a public sector collective bargaining law. We emphasize, however, that fair

Purpose – cont'd

share procedures are not only dictated by decisions of the courts and administrative agencies, but also in many cases by state law and state and local labor law procedures. Therefore, AFT locals are advised to consult counsel to see if there are any separate requirements imposed by state law.

Finally, please note that Article VIII, Sections 1 (b)-(d) of the AFT By-Laws requires that these procedures be implemented by all locals.

I. Notice

Notice of the Right to Become a Fair Share Payer

Non-union members of a bargaining unit can be required to pay a fair share to a union as a condition of employment to cover the union's cost of representing them. These "agency shop" or "fair share" provisions are legal under the National Labor Relations Act (NLRA), Railway Labor Act (RLA) and under state laws covering public employee unions in non Right-to-Work states.¹ However, newly hired nonmembers must be given notice that membership in the union is not required, and that nonmembers are responsible only for dues and fees incurred by the union for representing them in collective bargaining related activities. Such disclosure is commonly referred to as "General Motors rights" after a U.S. Supreme Court case which established this principle.² These activities include collective bargaining itself, administration of the collective bargaining agreement including handling of grievances and union administration. Additionally, nonmembers must be informed that they have the right to object to the use of their dues for purposes unrelated to collective bargaining. This is commonly referred to as "Beck rights" in the private sector, and "Hudson rights" in the public sector. Practically, many locals combine the "General Motors" and Hudson or Beck notices into a single document.

Who Must Receive Notice

*All newly hired nonmember employees of the bargaining unit must receive notice of their General Motors rights not to be a member of the union at the time the union seeks to obligate them to pay dues. Current fair share members should also be informed of the basis for the union's fair share calculation and their right to object to paying for activities unrelated to collective bargaining pursuant to the Hudson/Beck decisions. Many AFT locals send out their Hudson notices at the time school starts each year.*³

Content of Notice

The notice should inform the nonmember employee of the following:

1. S/he has the right to join the union or to be a nonmember;
2. As a nonmember of the union, s/he is required to pay an fair share to cover the costs of collective bargaining;
3. However, as a nonmember, s/he is not required to support activities of the union unrelated to collective bargaining, and is entitled to a reduction of her/his fair share;
4. Should a nonmember object, s/he is entitled to financial information from the union regarding the fair share calculation; and the major categories of expenditures; and

¹ The Right to Work states are: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

² See *NLRB v. General Motors Corp.*, 373 U.S. 734 (1963).

³ Some states require that fair share payers be notified individually whereas others only require posting notice on union bulletin boards or in the union newspaper.

I. Notice – cont'd

5. Each nonmember has the right to be apprised of any internal union procedures for filing objections to the fair share.

A sample notice that satisfies the above requirements is attached hereto as Appendix D.

How and When to Provide Notice of the Right to Become an Fair share Payer

- *Before new employees are obligated to pay dues, they must be informed of their Hudson/Beck rights and their General Motors rights. Notifying *new employees* can be achieved using introductory hiring materials.*
- Resigning members require no additional notice unless the member did not receive prior notice.
- Once an employee has been properly notified, *the union has no continuing duty to provide notice.*

However, since some unions are not always sure that all employees have been notified of such rights at the time they were hired, these unions provide a general notice to *all* employees annually of such rights in the union newspaper. This notice is often *combined* with the notice of chargeable and nonchargeable expenses described in the next section.

Post-Notice Issues

After the initial notice of the right to be a union member or fair share payer described above, nonmembers who object must be informed about the percentage of the reduction, the basis for the reduced fee and the right to challenge the figures. Please note that *fee objectors* are those who have made a general objection to the use of their fair share for purposes unrelated to collective bargaining. Objectors must *register their disapproval with the union annually* to receive the fee reduction. A sample notice to objectors explaining their right to the fair share reduction is set forth in Appendix C . *Fee challengers* are those nonmembers who have already objected and dispute the union's *calculation* of the fair share. The procedures to be followed when dealing with fee challengers are discussed in *Section IV, Objection Procedures*.

II. The Union's Financial Duty to Objectors

The Union's Duty to Separate Expenses

Nonmember employees must have sufficient information as to the major categories of expenditures to allow them to decide whether or not they will object to the union's use of their fees. This compels the union to perform a two-step process: 1) *separating expenditures* unrelated to collective bargaining from total expenditures i.e., separating chargeable and nonchargeable expenses, and 2) *determining the percentage* of nonchargeable expenditures to total expenditures.

AFT public sector locals must disclose this information to nonmembers *whether or not they object*. *AFT private sector locals* are under *no* obligation to provide this information, *unless a nonmember objection is received*.

Adequate Disclosure

Adequate disclosure requires that the major categories of expenses are separately broken out, such as direct, general, administrative and operating expenses. However, absolute precision is not required in calculating the fair share because predicting future expenditures with a high degree of certainty is difficult. (A sample disclosure of the chargeable and nonchargeable expenditures for an AFT local is attached hereto as Appendix E.) Thus, *the union may calculate its current fee based on the previous year's expenditures*. Nevertheless, once the union has disclosed the basis for the fair share fee, nonmembers can challenge its accuracy on appeal. A description of the elements of such an appeal procedure is set forth in Section IV of this guide.

III. Preparing the Fee Report

Nonchargeable Activities

Nonchargeable activities are expenses of an ideological or political nature not germane to collective bargaining. The U.S. Supreme Court has acknowledged that the government's interest in labor peace and security justifies some infringement on employee First Amendment rights. However, unions must limit this infringement only to the extent necessary to combat the problem of "free riders," the term used to refer to bargaining unit employees who gain the benefit of representation without paying for its cost. When unions participate in activities not furthering or germane to collective bargaining, it is not necessary to combat free ridership and represents an added encroachment on employee First Amendment rights. The following represents a list of activities found by the courts to be impermissible infringements on nonmember First Amendment rights and, therefore, nonchargeable:

- ❑ Lobbying unrelated to implementing or effectuating the collective bargaining agreement
- ❑ Organizing workers outside of the bargaining unit – (in California organizing expenditures either inside or outside the unit are not allowed at all)
- ❑ Litigation not directly effecting the nonmembers' bargaining unit – (but some extra-unit litigation is permissible, if it impacts the bargaining unit)
- ❑ Union activities not open to nonmember employees
- ❑ Portions of union publications relating to matters apart from collective bargaining, contract administration and grievance adjustment
- ❑ Public relations activities unrelated to collective bargaining
- ❑ Electoral politics, including ballot and bond issues
- ❑ Certain costs related to strikes or work stoppages

Chargeable Activities

Chargeable activities are those germane to collective bargaining, contract administration, and grievance adjustment. Chargeable expenditures need not be directly related to these areas but they must be related in more than a minimal way. In other words, it is not necessary that for national or state dues to be chargeable, that the national and state federation must prove that they provided a certain amount of specific chargeable services to the local in question. The goal of this policy is to allow unions to reap the beneficial effects of affiliation. For example, the national and state offices of the union can bring significant economic, political and informational resources to its locals. Consequently, the locals are simply paying their fair share to receive such benefits, even if they are not needed in a particular year.

III. Preparing the Fee Report – cont'd

The following are examples of chargeable activities:

- Preparation and negotiation of collective bargaining agreements
- Administrative, arbitral and court proceedings which have an impact beyond the immediate parties who are involved
- Investigation and research in connection with work-related subjects and issues
- Providing legal, economic and technical expertise on behalf of employees in all work related matters
- Contract administration
- Investigating and processing grievances
- Meetings and conferences within the union and with the affiliates as well as certain meetings with outside groups
- Employee group programs
- Communications with community organizations, civic groups, government agencies and the media regarding positions on work-related matters
- Accident & Liability Insurance – if provided to fair share payers

Allocating Combined Expenses between Chargeable and Nonchargeable

As noted above, expenditures related to collective bargaining, contract administration and grievance adjustment are chargeable. However, certain expenditures may be classified as chargeable or nonchargeable depending on whether they are germane to collective bargaining, contract administration and grievance adjustment. The following represents a list of expense areas where decisions often need to be made regarding chargeable and nonchargeable expenditures:

- Salaries*
- Fringe Benefits, Payroll and Other Taxes*
- Severance and Vacation Pay*
- Travel and Related Expenses
- Publications
- Mass and Electronic Media Information Services

III. Preparing the Fee Report – cont'd

- Columns or advertisements which appear in local newspapers and are paid for by the union
- Assistance and Collective Bargaining
- Defense Fund
- Departmental Meetings
- Educational Training Programs, QuEST, and Conferences
- General, Administrative and Operating Expenses
- Rent and Utilities

* At the national level, the chargeability of these items is usually based on a weekly activity report or review of appointment and meeting calendars, with interviews, for the persons performing these activities to determine what portion of a person's time and therefore salary and expenses is chargeable.

Verification of the Fee Report

Except as explained in the next section, an audit is required to verify the fee report. Based on the previous year's expenditures, the audit is then used to calculate the current fee.

An audit must be “an accountant’s independent confirmation of the reliability of the financial information contained in the financial report accomplished through the independent verification of selected transactions.”⁴ Additionally, a verified audit must include: “a report accompanied by an opinion letter certifying that, in the accountant’s opinion, the report presents fairly, in all material respects, the financial information which was the subject of the audit.”⁵ The accountant is *not* required to review every single transaction, as would be required in a so-called “fraud audit.” However, the accountant must follow the general accounting standards and principals required by the profession.

Local Presumption

The NLRB has stated that in lieu of an audit, a local may utilize a “local presumption.” Using a local presumption means that the local union assumes for accounting purposes that its percentage of chargeable and nonchargeable expenses is the same as the national union’s. The thought is that the percentage of chargeable expenses incurred by the national union is likely to be lower than the local's percentage and so this estimate is more than fair to fair share payers. The local presumption is subject to challenge, and the burden of proof rests with the union. The local presumption is a useful method for small locals who may not be able to afford the expense incurred in performing an audit.

⁴ AFTRA Portland (KGW Radio), 327 NLRB No. 97, (1999).

⁵ Id.

III. Preparing the Fee Report – cont'd

However, *in some states use of the local presumption is prohibited* by statute or court ruling and locals are required to procure an independent audit. Therefore, locals should check with counsel before utilizing the local presumption.

Independent Auditor

For fair share purposes, it is enough that the auditor is a certified public accountant (“CPA”). Additionally, the CPA need not be completely free from union ties as well. For example, the NLRB ruled that a CPA associated with a firm doing business with the union was sufficiently independent for fair share purposes.

IV. Objection Procedures

Notification

Objecting nonmembers of the union must make their dissent known annually. Otherwise, it is fair for the union to presume that they approve using their fees for purposes unrelated to collective bargaining.

Union Hearings and Procedures

The union must insure that its hearing procedures are not unduly burdensome. For example, requiring dissenting nonmembers to send their objections via certified mail was a procedure deemed unduly burdensome by the National Labor Relations Board. Also, for 1st Amendment freedom of association reasons the union cannot require objectors *to state a reason* for their objection. However, written objections can be required.

Annual Open Periods

- 1) Unions can establish an annual period where would be objectors, who were employees at the time the notice was given, can request a reduction in the fair share for eliminating nonchargeable expenses.
- 2) An additional objection period must be provided to new employees who are hired after the annual notice is distributed.
- 3) For resigning members, there is a split in authority as to whether the union must provide an additional objection period. AFT recommends that locals provide such an opportunity to object at the time of resignation.

Length of Open Period

The shortest open period that has been upheld by the NLRB has been one month, and the AFT suggests a 45-day open period. Narrow open periods have been upheld because they facilitate prompt resolution of the matter. However, should the length of the open period be seen as a means to frustrate the efforts of nonmembers in obtaining a reduction in their fair shares, it most likely would be invalidated.

Continuing Objections

The union may prohibit objecting employees from making continuing objections. For example, a non-union member cannot register his/her objection by stating that his/her objection remains in effect for a defined period unless revoked. However, this procedure has come under attack in recent litigations.

IV. Objection Procedures – cont'd

Appeals/Arbitration

The appeals procedure for fee challengers established by the union must provide for a reasonably timely resolution by an impartial decisionmaker. A trial-like hearing is not required. At least one state PERB has stated that appeals decisions are non-binding.

After initial consideration and review by union officials, the nonmember can appeal the union's decision to an impartial party selected to resolve the dispute. In some states, such as Illinois, the state labor relations board will consolidate all challenges to a union's calculations into one proceeding before the board. This consolidation could even involve challenges from different AFT affiliated locals. In other jurisdictions, an arbitrator hears the challenge. With regard to the costs of arbitration, the local must cover such expenses. A loser pays process or requirement of fee splitting could be vulnerable to attack on the grounds that it creates an unreasonable barrier for challengers to exercise their rights.

The arbitrator selected must be unbiased. Therefore, the arbitrator must be independent from both parties. We recommend that fair share arbitrations be conducted under the guidelines developed by the American Arbitration Association (AAA) referred to as the "Rules for Impartial Determination of Union Fees." However, nonmembers cannot be compelled to submit to arbitration if they have not agreed to do so previously. This affords objectors the right to bypass the arbitration process and file a suit in federal court.⁶

Consolidating Multiple Challenges

To prevent unions from bearing the cost and time involved in multiple fee challenges, courts and state labor boards have approved consolidation of objector complaints into one hearing. Cases can be consolidated before an arbitrator or they can be consolidated before a district court.

⁶ See AirLine Pilots Associations v. Miller, 523 U.S. 886 (1998).

V. Union Response to Objection: Fee Reduction, Escrow and Advance Rebate

Rebating Nonmember Dues

Objecting nonmembers cannot be required to pay the full fair share subject to a rebate for nonchargeable expenditures. Essentially the courts have viewed such a policy as allowing the union to obtain a loan for purposes the nonmember does not support. The union must minimize the possibility that nonmember dues will be used for activities they do not support. This can be accomplished by using fee reduction, advance rebates, *or* escrow accounts. These options are explained more completely below.

Advance Reduction of Fee

Advance reductions of fair shares are proper, provided nonmembers receive adequate information on how the fee has been reduced. The advance fee can be based on the previous year's expenditures, as absolute precision is not required. If the nonchargeable expenses figure is not challenged, the fair share is then reduced by that amount for the year. However, simply calculating nonchargeable expenses by themselves is not adequate. Nonmembers also have to be provided with information as to why they must pay the remainder of the fee. The content of the explanation is explained herein at Appendix C.

This fee report needs to be provided whether nonmembers object or not. The union cannot require the nonmember to produce or investigate what constitutes the fair share, as it possesses the information necessary to make the calculation. Therefore, the burden of calculating the agency reduction rests with the union. However, the union is not obligated to provide the nonmember with any of its original source documents. A copy of the report is sufficient.

Escrow

The portion of dues paid by objecting nonmembers that is *reasonably in dispute* must be placed in escrow while challenges are pending. The *full dues amount* does *not* have to be placed in escrow. While escrowing the entire amount reduces the risk that funds are spent impermissibly over the nonmember's objection, such policy also deprives the union of funds it is lawfully entitled to. Reducing the escrow amount based on an independently verified and conducted audit to determine unquestionably chargeable expenses can solve this problem. When the union provides an audit of expenditures detailing unquestionably chargeable expenses, that portion of the objector's dues for chargeable expenses need not be placed in escrow. Of course, where there are no objectors who challenge the union's fair share calculations, there is no need for an escrow account.

Advance Rebates

Advance rebates are permissible to satisfy the prohibition against use of fair shares functioning as loans. For example, the courts upheld a procedure whereby the union required objectors to pay full dues but provided a rebate in advance.⁷

⁷ *Tierney v. City of Toledo*, 1321 LRRM 2664, 2666-67 (N.D. Ohio 1988).

V. Union Response to Objection: Fee Reduction, Escrow and Advance Rebate – cont'd

Union May Waive Fee Obligation to Avoid Accounting Costs

If dealing with objectors is troublesome or costly, the union can waive the nonmember's obligation to pay the fair share. For example, if the administrative costs (e.g. accounting, verification by independent auditor, etc.) of determining the reduced fair share for an objector is impractical because of the small amount of objectors, the union may conclude that its resources would be better directed elsewhere, and simply waive the objector's fair share responsibility.

AFTERWORD

Consultation with Counsel

Where state law requires consent by the fair share payer prior to the deduction of fees, no local should seek to dismiss an individual who refuses to pay the fair share *without prior consultation with counsel*. Although it is within the local's power to do so, each situation should be handled individually. This necessitates conferring with counsel to discuss all the facts surrounding the employee's dismissal. This allows the local to determine whether or not other legal consequences might arise and to suggest alternative responses if necessary. In some states where fair share fees are specifically authorized by statute, public employers may make the deductions for fair share fees without the necessity of employee approval.

APPENDIX A

Fair Share Checklist

- Notice
 - Notify current fair share payers annually of the right to a reduced fee
 - Notify new employees before the fee obligation begins, or annually if that is not possible, of the right to be a fee payer
- Procedures
 - Objecting employees must notify the union of their disapproval
 - The objection procedure must not be burdensome
 - Employees cannot be required to state the reason for their objection
 - Provide annual open period for employee objections of at least one month
- Fee Reduction Requirements
 - Union must provide objector with financial information supporting fee reduction
 - The reduction must be timely so that objectors do not subsidize nonchargeable activities
 - Methods: Advance Rebate, or Advance Fee Reduction
- Adequacy of Union's Financial Disclosure
 - Must be sufficient to allow objector to determine whether to challenge the union's calculation
 - Must include breakdown of major expenditures
 - Must be verified by independent audit
- Chargeable Expenses
 - Only those expenditures germane to collective bargaining
- Escrow
 - Once an objector decides to challenge the union's calculation, the amount reasonably in dispute should be placed in an escrow account.

APPENDIX A - cont'd

- Appeal Procedure
 - Prompt decision by impartial decisionmaker

 - If arbitration is desired, insure it is incorporated in the collective bargaining agreement. In some states consent by the fee payer is also required to use arbitration to resolve disputes.

APPENDIX B

Questions and Answers

Q: When must non-union employees be given notice of their Beck & General Motors Rights?

A: Non-union employees must be given notice of their right to have their fair share reduced *before they are obligated to pay dues and upon resignation if they have not been previously notified.*

Q: What procedure must the union establish to handle the objections of nonmembers?

A: Unions can require objecting employees to notify them of their objection. Many unions require objecting employees to submit their objections in writing, but the manner in which objections are submitted can be chosen on the basis of administrative efficiency. However, the union's objection procedure must not be unduly burdensome on the employee. For example, requiring objection letters to be sent via certified mail has been held to be an unduly burdensome procedure.

Q: Can the union establish a window period for nonmembers to voice their objections?

A: The union can establish a window period for nonmembers to register their objection to the use of their fair share for nonchargeable purposes. Courts have held that establishing an annual window does not infringe on the rights of non-union employees, and that procedures that contribute to prompt resolution of the matter are preferred. Therefore, creating a window period furthers the union's interest in efficiency by not requiring it to handle objection letters year-round.

APPENDIX B - cont'd

Questions and Answers

Q: How long must the window period last?

A: While no ruling of the NLRB or U.S. Supreme Court has set a definitive standard for the length of the window period, generally the window period must not frustrate nonmembers from registering their objection. A window period as small as one month has been approved by the courts,⁸ and a four-month window period has been upheld as permissible also.⁹

Q: Can fair share payers make continuing objections?

A: Fair share payers can be required to renew their objections annually. However, this practice has come under attack in some areas and may subject to change in the future.¹⁰

Q: Can a nonmember employee be terminated for non-payment of fair shares?

A: Nonmember employees can be terminated for non-payment of periodic dues and fees required under agency shop agreements. Since the union has a duty to represent non-union members in the bargaining unit fairly, the union can require an employer to terminate an employee for not contributing to the union's cost of representing them. However, before initiating termination proceedings the union should consult with counsel to help ensure that all the legal prerequisites have been satisfied.

⁸ *Nielsen v. IAM*, 94 F. 3d at 1107, 1110 (1996).

⁹ *Fell v. Independent Ass'n of Continental Pilots*, 26 F. Supp 2d 1272 (D. Colo. 1998).

¹⁰ *Shea v. Machinists*, 154 F. 3d 508, (5th Cir. 1998), held that not allowing non-union members to object continually was an arbitrary and unnecessary practice which burdened their First Amendment rights. However, this ruling was made under the Railway Labor Act and involved labor management relations in private industry. Further, the states covered by the Fifth Circuit, Louisiana, Mississippi and Texas are right to work states where instead of a fair share procedure, nonmembers simply drop out of the union altogether. Of course, we will continue to monitor this issue and provide you with the latest rulings.

APPENDIX C

Sample Beck/Hudson Notice

NOTICE TO ALL NON-UNION MEMBER FAIR SHARE FEE PAYERS

Dear Colleague:

State law provides for public employees who currently enjoy the benefits and advantages of a collective bargaining unit agreement but are not members of the union, to pay their fair share of the cost of collective bargaining, contract enforcement, and related activities. Any request for exemptions whether they had been granted or not must be filed each year.

Based on the auditors' calculations, your fair share, as a non-union member, is [insert correct percentage] of the regular dues pay by a [insert local name] member.

Currently our membership includes approximately [insert correct percentage] of all those eligible to join. It has been this unity and magnitude of support that has helped make our contract settlements a reality. This magnitude of support has brought us the financial stability necessary to finance benefits for all employees in the local. This support also helps us when we fight for true educational improvements.

As a member of our union you would have the right to take part in local chapter elections and meetings. You would have the right to be part of general membership meetings. You could run for office. You would have a voice in electing your officials, voting for contract proposals and ratifications, submitting contract proposals, and making your voice heard through our various committees and meetings.

As you can see, for only pennies more, you can enjoy the full advantages of union membership. At the same time, you can help us help you. Let's make it 100%.

Enclosed is a membership application. Upon receipt of your application, we will immediately change our records to reflect your new status as a [insert name of local] member.

In Solidarity,

President

APPENDIX D

Sample Statement of Allocation Between Chargeable and Nonchargeable Expenses

Appendix E

Sample Fair Share Payer Objection Policy

Individual nonmember fair share fee payers who wish to challenge the [insert local name] calculation of chargeable expenses and the amount of the fair share fee set forth in this notice must do so individually and in writing. The written challenge must include the challenger's name, address, social security number, job title, and work location.

The written challenge must be sent to the local by mail, postmarked no later than 30 days from the date of this notice, to the following address:

[insert appropriate address]

An impartial decisionmaker will be appointed by the American Arbitration Association to resolve all challenges to the [insert local's name] fair share fee determination. All challenges to the [insert local's name] fair share fee will be consolidated into a single proceeding. The impartial arbitrator will hold hearings in which the challenger(s) can participate personally or through a representative. In these hearings [insert local's name] will have the burden of proof regarding the amount of the fair share fee and the accuracy of the underlying calculation of chargeable expenses. The challenger(s) will be given an opportunity to present their own evidence and to present written arguments in support of their challenge(s). The arbitrator will issue a written decision and award on the basis of the evidence and argument presented. The challenger(s) will receive further information regarding the hearing, including the time and the place of the hearing, directly from the American Arbitration Association.

Upon receipt of a written challenge the [insert local's name] will deposit, in an interest bearing escrow account, 100% of the fair share fee paid by the challenger pending resolution of their challenge. The fair share fee shall remain in escrow until the arbitration award issues and shall be distributed, along with accrued interest, pursuant to the arbitrator's ruling.