

FEDERATION OF TEACHERS NON-MEMBER FAIR SHARE PAYMENTS
IMPLEMENTATION PROGRAM AND APPEAL PROCEDURE

1. Fair Share Fee Determination

Prior to the commencement of each school year, the CFT/ACPSOP shall obtain an independent audit from a certified accountant selected from a list of three certified accountants with offices in Cincinnati, Ohio, submitted to the CFT/ACPSOP upon written request, by the Board's Treasurer. The selected independent auditor shall continue to serve unless a new selection process is initiated, in writing, by the CFT/ACPSOP. The accountant will prepare a detailed analysis and audit of CFT/ACPSOP expenditures in the preceding school year, verifying that portion of the CFT/ACPSOP's union dues, which may be appropriately charged to non-members through fair share fee under federal and state law.

Prior to the commencement of each school year, the Executive Committee of the CFT/ACPSOP shall set the fair share fee for the upcoming school year, in strict conformity with the audit and report of the accountant described above, and the CFT/ACPSOP's anticipated collective bargaining expenditures for the coming year. The CFT/ACPSOP shall communicate the fair share amount to the Board at least (14) days prior to the issuance of the first paycheck to the teachers and office personnel at the beginning of each school year.

2. Notification To Non-Members Of Fair Share Fee and Right to Appeal

The CFT/ACPSOP shall prepare, date, and distribute prior to the distribution of the first paycheck to teachers in September of each school year a notice to non-members, which shall be distributed and published as required in the agreement between the CFT and the Board and ACPSOP and the Board. The notice shall incorporate the accountant's audit report including an identification of those amounts considered to be chargeable and non-chargeable to non-members, pursuant to federal and state law, and shall describe the rights of non-members to object to the amount of the fair share fee set by the CFT-ACPSOP.

3. Filing Objections To Fair Share Payments

Any non-member employee making fair share payments may object to the fair share calculation on grounds that the fee charged is contrary to state or federal law. Any such objection may be made by the objector individually by sending a letter addressed to the CFT President, or the ACPSOP President, 1520 Madison Road – Suite 101, Cincinnati, Ohio 45206-1777 stating any objections, the desire to invoke the CFT/ACPSOP appeal procedure, and objector's address and bearing the objector's signature. The letter must be postmarked or delivered at any time after notice by CFT/ACPSOP of the amount of the fee, as required by the respective Collective Bargaining Agreements, but before the thirtieth (30th) day following the first deduction of the fee from the objecting CFT/ACPSOP non-member's earnings.

4. Escrow Arrangements

Upon the CFT/ACPSOP's receipt of a letter invoking this procedure, the CFT/ACPSOP shall deposit in an escrow account, separate from all other CFT/ACPSOP funds, the amount of fee payments received on behalf of the objector that is fairly placed at issue by any objections, but not less than ten (10%) of the fair share fee as verified by any independent auditor. CFT/ACPSOP shall furnish the objector with independent verification of the terms of the escrow arrangement, and upon request by any objector, shall report the status of the escrow account.

The escrow account will be established with and maintained by a federally insured commercial bank with offices in Cincinnati, Ohio, and the escrow agreement shall provide that the escrow account will be interest bearing at the highest available rate; that the escrowed funds remain intact until the final disposition is provided for herein; and that the escrowed funds will terminate and the fund therein be distributed only by the term of an ultimate award, determination, or judgment including any appeals or by the terms of a mutually agreed settlement between the CFT/ACPSOP and any objector(s).

5. Appeal Procedure

Within sixty (60) days following the first deduction of the agency fee from the paychecks of objecting non-members at the beginning of the school year, the CFT/ACPSOP's Executive Committee shall meet to consider all written objections received by CFT/ACPSOP and may respond to such objections by either voluntarily reducing the agency fee for all non-members, or by notifying the objectors that the agency fee will remain as originally calculated. The decision of the Executive Council shall be dated and reported in writing to all objectors. Within such sixty (60) day period, CFT/ACPSOP shall provide to the American Arbitration Association (AAA), copies of all objections received to date during the school year, and the names and mailing

addresses of the objectors. At that time, CFT/ACPSOP shall request the AAA to commence arbitration proceedings, pursuant to the AAA's rules for Impartial Determination of Union Fees.

Thereafter, the AAA will appoint an arbitrator, select a hearing date, and otherwise administer the arbitration proceeding in accordance with such Rules.

To the extent possible, the arbitrator shall schedule the arbitration during hours after the regular school day, or on weekends or holidays, so as to avoid disruption of the participants' performance of their regular duties for the Board or CFT/ACPSOP.

6. Arbitration Proceedings

The fees and any expenses of the arbitrator, and the costs of reproducing records agreed to or ordered by the arbitrator shall be borne by CFT/ACPSOP. Any party may record or transcribe the hearing at its own cost.

Non-members who do not object to the agency fee shall not be entitled to any portion of the escrowed funds, nor shall non-objectors be entitled to any rebate of agency fees already paid, should the arbitrator order a reduction of the agency fee for the year in question. If the arbitrator rules that the agency fee should be reduced, the agency fees paid by all non-members from that date forward in the school year shall be reduced accordingly.

CFT/ACPSOP shall not be responsible for payment of any lost wages or compensation incurred by objectors as a result of participating in the arbitration.

The decision of the arbitrator with respect to the objections made to the agency fee will be final and binding upon all parties.

7. Objections Received From Newly-Hired Employees During The School Year

Newly hired employees are obliged under §130.e.1. of the CFT Collective Bargaining Agreement and Article IV, A of the ACPSOP Collective Bargaining Agreement to commence the payment of the fair share fee with the first paycheck due following the sixtieth (60) day after initial employment. Such newly hired employees may exercise their right to object by following the objection procedure described above within thirty (30) days of their first fair share fee payroll deduction for non-members of CFT/ACPSOP.

Upon receipt of such objections, CFT/ACPSOP shall forward the objector's name to AAA for the purpose of consolidation of such objection with any ongoing arbitration, and CFT/ACPSOP shall also commence an escrow of the appropriate amount of the objector's fair share fee.

If the objection is forwarded to AAA subsequent to the commencement of a fair share fee arbitration hearing during the ongoing school year, then the objector's fair share fee has an opportunity to participate in the subsequent year's arbitration, and upon such agreement, any funds escrowed for such objector shall be distributed in accordance with that arbitration decision.

8. Arbitration Award

The arbitrator shall issue a written award, based on the evidence and relevant provisions of the Collective Bargaining Agreement and federal and state law, determining whether the fair share fee was appropriately calculated and, if not, what the appropriate calculation should have been. The award shall be final and binding on all parties. The applicable escrow funds and the interest accrued thereon shall be disbursed pursuant to the award unless an action for judicial review, or review by SERB, is filed and served within thirty-five (35) days of the date of the award.

9. Religious Objections to Fair Share Fees

Any objections to the payment of fair share fee based upon religious beliefs shall be handled in accordance with O.R.C. 4117.09 (C), which provides:

"Any public employee who is a member of and adheres to established and traditional tenants or teaching of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting any employee organization and which is exempt from taxation under the provisions of the Internal Revenue Code, shall not be required to join or financially support any employee organization as a condition of employment. Upon submission of proper proof of religious conviction to the State Employment Relations Board, the Board shall declare the employee exempt from becoming a member of or financially supporting an employee organization. The employee shall be required in lieu of the fair share fee, to pay an amount of money equal to such fair share fee to a non-religious charitable fund, exempt from taxation under Section 501(C)(3) of the Internal Revenue Code, mutually agreed upon by the employee and representative of the employee organization to which the employee would otherwise be required to pay the fair share fee. The employee shall furnish to the employee organization written receipts evidencing such payments, and failure to make such payments, or furnish such receipts shall subject the employee to the same sanctions as would non-payment of dues under the applicable collective bargaining agreement."