

# MEMBER LEGAL SERVICES POLICY FOR INDIVIDUALS

## A. PURPOSES

The purpose of the CEA Member Legal Services Policy for Individuals is to provide quality legal assistance to eligible educators in certain employment related disputes. The CEA and its affiliates shall provide such legal assistance without regard to race, color, creed, sex, national origin, marital status, political or religious beliefs, family, social, economic or cultural background, sexual orientation, age or handicap.

## B. ELIGIBILITY

### **1. Active CEA Members**

To be eligible for legal services, an educator must be an active CEA member. However, any educator who, though eligible, has not enrolled as an active CEA member within thirty days of becoming eligible, and who subsequently elects to join shall only be entitled to legal services for any problem or vent occurring after said thirty day period and for instances post sign-up. Any exception to legal representation in this section will not be without specific authorization of the Executive Director. Any adverse decision by the Executive Director can be appealed to the Executive Committee.

### **2. CEA-Retired Members**

Notwithstanding any other provision of the Member Legal Services Policy for Individuals, legal services shall be provided to a CEA-Retired member in the following limited circumstances, all of which must exist: (1) at the time of

retirement, the member was an active member of CEA; (2) the retired member has been a CEA-Retired member since retirement or since January 2003, whichever is later; (3) the claim for which legal representation is requested is based on the collective bargaining agreement under which the CEA-Retired member retired; (4) the claim for which legal representation is sought affects a group of retirees under the collective bargaining agreement rather than just an individual claim; (5) the president of the local association from which the CEA-Retired member retired requests such legal representation from the CEA Board of Directors and/or Executive Committee, (6) the CEA Board of Directors and/or Executive Committee approves such request.

### **3. Private Legal Representation**

Any educator, who is eligible but who chooses to obtain private legal counsel, shall not be entitled to payment of such counsel's fees, or any expenses incurred in such representation. If an educator retains private counsel, CEA counsel will not co-counsel unless private counsel is representing the educator in a criminal case involving the same subject matter. CEA counsel will not represent an educator in any matter in which the educator has already been represented by private counsel.

## C. PROCEDURES

Requests for legal services shall be made to the Member Legal Services Department through the UniServ Representative. If the representative is unavailable, the request will be referred through the Director of the Affiliate Services and Member Training Department. Requests from individuals may be made either in

written or oral form. Such requests shall be reviewed in a timely fashion by the Member Legal Services Department.

Requests for legal opinions posed by local officers, staff, or members shall be referred to the Office of the President, who will then refer the request to the Executive Director.

## D. COVERAGE

1. Legal services shall be provided to active members by Member Legal Services in employment-related matters including statutory terminations, for tenured members, Department of Children and Families (DCF), Unemployment, Certification, Workers' Compensation, Unfair Labor Complaints or approved Association activities subject to the following restrictions: in those matters which, through past practice (i.e. grievance arbitration, representation of non-tenure teachers at non-renewal hearings, or termination hearings, day-to-day problems in administering the contract, etc.) have been routinely handled by the UniServ Representative, legal representation shall not be provided unless the CEA President and Vice President, after consultation with the Executive Director, CEA Member Legal Services Department, and the Director of Affiliate Services and Member Training Department, find there are extraordinary circumstances requiring attorney representation; and in those matters for which a member has, may have, or comes to have any private course of action against the school district for which they are being represented by counsel or are being represented pro se.

2. Legal services are not provided in the following matters:

- a. Defamation proceedings, except to defend educators against defamation claims arising out of their engagement in union activities;
- b. Commission on Human Rights and Opportunities (CHRO), Title VII, or other types of discrimination claims arising out of member employment;
- c. Criminal proceedings: (Note: The Educators Employment Liability insurance policy provides reimbursement of attorneys' fees in defense of employment-related criminal proceedings if the individual is exonerated, or in criminal proceedings which involve the use of corporal punishment.);
- d. In those matters for which a member seeking assistance with a workers' compensation matter is unable to produce a causation report from their treating physician linking their injury to the work-related incident.
- e. The initiation of litigation as a private course of action; and
- f. Matters in which the educator is being challenged by one or more rank-and-file employees or an employee organization as a result of an action taken by said educator as a management representative.

3. Consultations regarding matters not covered within the Member Legal Services policy will not be provided.

4. In any request for legal assistance, CEA reserves the right to decide whether to grant such assistance based upon the following considerations: (1) merit;

(2) significance of issue to the organization; and (3) precedential value.

### **E. APPEALS PROCEDURE**

1. In the event that an eligible educator is denied legal services, he/she may appeal to the Lyndon U. Pratt Fund Committee, or its successor, in accordance with the Pratt Fund Guidelines.

2. Decisions by the Pratt Fund Committee shall be in writing and shall include a statement of the member's right to appeal to the CEA Board of Directors. The educator shall have the opportunity, if he/she requests, to appear before the Board of Directors for the purpose of making an oral argument concerning the record of the hearing before the Pratt Committee.

The Board of Directors may ask questions for the purpose of clarification. The Board of Directors shall decide the matter based on the written record and oral argument.

3. The Board's decision shall be in writing and shall include a statement of the member's right to appeal to the NEA.

4. An applicant whose application for legal assistance is rejected by the CEA Board of Directors may appeal to the NEA on the sole ground that the state affiliate failed to process his/her application in accordance with the provision of its legal services program. (See Unified Legal Services Policy (ULSP) Guidelines, Section IV. C. 2.) Said appeal must be postmarked no later than ninety (90) days after the receipt of the notice by the Board of

Directors of the rejection of the application.

### **F. RECOVERIES**

In the event that any educator recovers an amount in excess of his/her loss in a legal proceeding, he/she shall repay the National Education Association (NEA) a percentage of said excess equal to the percentage of funding provided by NEA under the DuShane Fund Program.

In the event that court costs and/or attorney's fees are awarded by a court, said amounts shall be paid to CEA.

**ADOPTED BY THE CEA BOARD OF DIRECTORS DECEMBER 18, 1982**

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**AMENDED BY THE CEA BOARD OF DIRECTORS AUGUST 3, 2003;**

**AMENDED BY THE CEA BOARD OF DIRECTORS JANUARY 5, 2007;**

**AMENDED BY THE CEA BOARD OF DIRECTORS MARCH 1, 2007**

**AMENDED BY THE CEA BOARD OF DIRECTORS, DECEMBER 13, 2013;**

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