

November 16, 2011

DEMAND AND RETURN PROCEDURE

Dear Colleague:

The achievements and protections of collective bargaining are shared by all the members of our bargaining unit regardless of membership in the AAUP-AFT. Most of our activity is devoted to contract negotiations, assistance to individuals with grievances, contract administration, such as health and safety programs at the University, and lobbying at Trenton to improve our pension, disability and health benefits.

Since all the members of the bargaining unit share the benefits of representation, the New Jersey Legislature authorized the institution of representation fees for the purpose of requiring nonmembers of unions to bear a fair share of the expenses incurred by the unions in representing their interests. The representation fee is currently 84.33% of regular membership dues. The appropriate amount is deducted in equal payments, one from each paycheck.

The legislation that allows representation fees specifies that certain activities may not be paid for with those fees; the prohibited activities are "aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment" and "benefits available only to members" of the AAUP-AFT. Certain legislative activity is permitted by the statute and approved by the U.S. Court of Appeals.

The legislation also allows nonmembers to challenge the use of their representation fees. If you believe that your fees are being used for prohibited activities, you may demand a refund of the portion of your fees that you believe is being so used. The burden of proof in this proceeding is on the Rutgers AAUP-AFT.

The Rutgers AAUP-AFT has established a Demand and Return Procedure that allows you to object to the use of your representation fees for prohibited purposes. The procedure provides an opportunity for you to present evidence and submit a statement of position. As set out in the enclosed Demand and Return system, you may object to payment of representation fees for calendar year 2012 between December 1, 2011 and December 31, 2011. Should you object to full payment of your representation fee, the AAUP-AFT will place your representation fee in a special savings account at Bank of America currently paying .05% interest.

For your information we are including the following items: (1) a copy of the Demand and Return Procedure; and (2) a statement of expenses and allocation of expenses between chargeable and non-chargeable expenses, year ended June 30, 2011.

If you have any questions about the material in this communication, or if you need assistance in calculating the exact amount of your representation fee, or if you have received this by e-mail and want a print copy, please call the AAUP-AFT office at 732-964-1000.

Finally, please consider joining the AAUP-AFT as a full member. You may download and print a membership application at: <http://www.rutgersaaup.org> or telephone the AAUP-AFT office and we will send you a form.

In Solidarity,

Adrienne E. Eaton, President

REPRESENTATION FEE DEMAND AND RETURN PROCEDURE

1. Any person who makes representation fee payments in lieu of dues and who objects to the expenditure of any portion of such payments in aid of activities of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of benefits available only to members of the AAUP-AFT shall have the right to dissent from such expenditure and to receive a refund of any part of the representation fee payment used for improper purposes.
2. The AAUP-AFT fiscal year commences on July 1; the AAUP-AFT dues year commences on January 1.
3. No later than November 30, prior to the commencement of each dues year, the AAUP-AFT shall send a notice to all represented employees who are not members of the AAUP-AFT providing them with information including the amount and method of calculation of representation fees; the schedule of deductions; the procedures to file an objection; a breakdown of income and expenditures for the last fiscal year verified by an independent auditor; the location of the objectors' escrow account; and the amount of interest currently being paid on such account.
4. Objections to the deduction of representation fees in any dues year (January 1 – December 31) must be filed between December 1 and December 31 of the year prior to the commencement of the dues year. An objection must be filed in writing by certified mail or by any other manner that provides a verifiable proof of date of delivery.
5. The objector may indicate to the AAUP-AFT which expenses he or she believes have been improperly incurred. Any portion of the representation fee allocated for the contested expenses shall be put into an interest bearing account (objector escrow account). The amount placed in the account described here shall not be used by the AAUP-AFT without the consent of the objector until there is a final resolution of the objection.
6. By January 15, The AAUP-AFT President or her/his designee shall notify the objector of the grounds upon which the AAUP-AFT contests the objection, if any. On the same date, the AAUP-AFT shall transmit all objections and the AAUP-AFT answers to the Representation Fee Review Committee ("Committee").
7. By February 1, the AAUP-AFT and the objector may submit any documentary evidence to the Committee in support of their positions. In addition, the objector and the AAUP-AFT shall have the right to request that the Committee obtain documents, records or information from the other party. The Committee shall allow an objector a reasonable opportunity to review records reasonably related to the objection, under the supervision of the AAUP-AFT, prior to January 15.
8. Any evidence that is provided to the Committee by any party voluntarily or at the request of the Committee shall be made available to the other party. The evidence shall be made available at reasonable times at the office of the AAUP-AFT at New Brunswick or at a designated place on the Newark or Camden campus, if the objector is not employed at the New Brunswick campus. A party may obtain copies of the evidence submitted provided that he or she remits the reasonable costs of copying.
9. By February 1, any party may submit a written statement of position to the Committee. There shall be no further right to submit a reply.
10. By March 1, the Committee shall issue its decision on the objection.
11. For good cause, the Committee may grant an extension of time for submissions at any step of this proceeding.
12. The burden of proof shall be on the AAUP-AFT at every step of the proceeding. Any allegation not answered by the AAUP-AFT shall be deemed admitted and true for the purposes of this procedure. The AAUP-AFT must prove that it did not use any part of the representation fee in question for the objectioned improper purposes. If the AAUP-AFT does not comply with the prescribed time limits, the allegations in the objection will be deemed true. If the objector does not comply with the prescribed time limits, the Committee may make its decision on the basis of the evidence properly submitted.
13. By March 15, the President of the Rutgers Council of AAUP-AFT Chapters shall accept, reject or modify the decision of the Committee. Notwithstanding the President's action, the individual objector shall receive a refund in the amount set by the Committee for the first quarter of the dues year, with accrued interest, along with the final decision of the President. Thereafter, the AAUP-AFT will refund the amount set by the Committee on a quarterly basis, with accrued interest, within 15 days following the end of each quarter of the dues year.
14. Newly hired employees are forwarded the notice specified in Section 3 as soon as the Council is informed of their employment by the University. Notwithstanding the dates set forth in other sections of this procedure for the processing of an objection, those newly hired employees who for reason of being hired after November 15 are unable to file an objection by December 15 shall have a period of thirty (30) days from receipt of the notice specified in Section 3 to file an objection in writing by certified mail or by any other manner that provides a verifiable proof of date of delivery. The AAUP-AFT shall answer the objection within 15 days from receipt thereof. Such newly hired employees whose objections have not been previously considered by the Committee shall have the option of accepting the decision of the President with respect to other objections filed or of submitting additional evidence to the President. In the event that any such newly hired objector decides to submit evidence and/or a state of position in support of the objection, he or she shall do so within 30 days from receipt of the AAUP-AFT answer to the objection. The AAUP-AFT may also submit additional evidence during this 30 day period. The President shall make a final determination on the objection within 30 days from the last date to submit evidence. Except as specifically modified by this section, all other provisions of this procedure apply to newly hired employees.
15. Any act required by this procedure on a date that is not a working day may be performed on the first working day thereafter. For the purposes of this procedure "working days" are defined to be all days that the administrative offices of the University are officially open for business and that academic year appointees are required to be in attendance at the University.
16. The Committee shall be composed of three persons, faculty members or faculty retirees at Rutgers University, appointed by the Executive Council of the AAUP-AFT. The Committee can be reached at: **Representation Fee Review Committee, Rutgers AAUP-AFT, 11 Stone Street, New Brunswick, New Jersey 08901-1113.**
17. If the objector is dissatisfied with the decision of the Committee, he or she may appeal to the Public Employment Relations Commission Representation Fee Appeal Board as provided in N.J.S.A. 34:13A-5.6.
18. A decision on an objection becomes final when the President of the Rutgers Council of AAUP-AFT Chapters renders his/her decision or, in the event of an appeal to the PERC Appeal Board, on final adjudication under its adopted procedures.