

# CASE NOTICE TO FEE PAYERS FOR 2018

As a fee payer under the provisions of the State Employer-Employee Relations Act (Dills Act) you have certain rights concerning the amount and use of your “fair share fees”. Government Code Section 3513(k) states that these fees may only be used to defray the costs incurred by CASE in fulfilling its duty to represent bargaining unit employees in their employment relations with the State. This section implements case law holding that the United States Constitution only permits fees to be used for expenditures “necessarily or reasonably incurred” by an organization for the purpose of performing its duties as the employees’ exclusive representative. CASE provides the following information to you so that you will be aware of how your fees have been spent, what your fee will be for the next year, and how you may challenge the expenditures if you believe that any are not germane to the representational function of CASE.

## **I. AMOUNT AND BASIS OF 2018 FEE**

California law authorizes the State of California, Office of the Controller, to deduct a fair share fee from the salary of all non-members of CASE in Bargaining Unit 2, pursuant to Government Code sections 3517.7 and 3517.8. These fees are due annually, but remitted directly to CASE on a monthly basis and are used to support representation on behalf of fee payers and members alike with regard to negotiating and protecting their terms and conditions of employment with the State.

The fair share fee is that portion of the regular membership dues deemed sufficient to cover the proportional costs of providing the “necessary and reasonable” collective bargaining and representation services to all members and fee payers for the 2018 fee payer year (January 1, 2018 – December 31, 2018). The 2018 fair share fee was established following an analysis of CASE’s audited 2016-2017 fiscal year financial income/expense statement prepared by the independent accounting firm of Grant Bennett Associates, a Professional Corporation, Certified Public Accountants. Grant Bennett Associates also audited and prepared the enclosed “Schedule of Unrestricted General Operating Expenses and the Allocation of Expenses between Chargeable and Non-Chargeable for the Year Ended June 30, 2017 with Independent Auditor’s Report”. CASE’s expenditures were grouped into three general categories: chargeable, non-chargeable, and apportionable. Services or benefits provided only to members of CASE are non-chargeable, including representation of supervisors or managers who are not members of the bargaining unit but who have voluntarily joined CASE. Some activities may either be chargeable or non-chargeable and these have been allocated or apportioned as explained in the enclosed Schedules, Allocations, and Notes prepared by Grant Bennett Associates.

CASE's regular membership dues are \$60 per month, \$13.33 of which is designated as a contribution to CASE's Political Action Committee (CASE-PAC). **Your fair share fee for 2018 has been set at \$45.79 per month.** This represents: 1) a \$13.33 reduction for the contribution which would otherwise have been made to the Political Action Committee; this portion of the regular monthly dues is not being charged to fee payers unless they affirmatively elect to contribute to the CASE-PAC. 2) The proportional costs of providing the "necessary and reasonable" collective bargaining and representation services has been determined to be 98.12% of the remaining net dues rate of \$46.67 per month, or \$45.79 (See page three (3) of the enclosed auditor's report.)

The information below is provided to give you greater detail about the services CASE provides and is intended to supplement the enclosed Schedule, Allocations, and Notes.

#### **A. Representational Activities on Behalf of All Unit 2 Employees (Chargeable)**

These include, but are not limited to, the following activities:

##### *Contract Negotiation*

- Meetings and surveys for purposes of assessing state employee work-related needs.
- Developing and presenting contract proposals.
- Conducting bargaining negotiations with representatives of the Governor (CalHR) during table sessions and periodically during the contract term on meet-and-confer issues.
- Obtaining ratification and funding of negotiated contracts, monitoring their implementation, and gaining clarification of items in dispute under the contract by meetings and communications with representatives of the state.
- Monitoring and preparing data on actions by the State Personnel Board, Public Employees' Retirement System, and California Department of Human Resources that affect the terms and conditions of employment of unit employees and are subjects of negotiation.
- Establishing and maintaining a statewide Bargaining Unit 2 informational network, including a CASE web site.

##### *Contract Administration*

Contract disputes and grievances concerning wages, hours and working conditions such as merit issue complaints to SPB, appeals from denials of merit salary adjustments, health and safety complaints, examination appeals to SPB, appeals from involuntary transfers, etc. Includes researching and answering questions from bargaining unit members about rights arising out of an employment relationship where CASE is the exclusive representative.

##### *Disciplinary Representation*

Approved representation of any bargaining unit employee to challenge disciplinary action taken by an employer. Does not include internal union discipline, but does include the following activities:

- Representation of unit employees in internal affairs investigations.
- Skelly hearings before agency employers.
- Rejection while on probation appeal hearings before the SPB.
- Medical transfer, demotion, or separation appeals.
- Work improvement discussions.

- Performance evaluation discussions.
- Disciplinary appeal hearings before the SPB.
- Preparation and presentation of petitions for hearing before the SPB.

#### *Litigation Related to Collective Bargaining*

Litigation before agencies or in the courts that directly concerns either CASE as an institution or the enforcement of rights arising out of an employment relationship where CASE is the exclusive representative. Includes, but is not limited to:

- Arbitrating contract disputes.
- Investigation, documentation, verification, and settlement discussions prior to the filing of an unfair practice charge concerning a bargaining unit employer's conduct that is arguably prohibited by labor laws governing collective bargaining.
- Filing and litigating unfair practice charges before the Public Employment Relations Board.
- Filing and arguing Writs of Mandate in Superior Courts challenging disciplinary decisions.
- Filing and arguing various appeals in the courts regarding the enforcement of unit employee rights, benefits, or privileges.
- Includes witness fees, transcript fees and subpoena service fees.

#### *Legislative Activity Related to Collective Bargaining*

- Securing legislation to approve the negotiated collective bargaining contract.
- Lobbying for budgetary and appropriations decisions to implement the terms of the negotiated contract.
- Taking positions and actions on bills affecting the negotiation of salaries, benefits and other terms and conditions of employment contained in the contract.
- Professional lobbyist services to assist with the above activities.

#### *Institutional Maintenance*

Defending against the contracting out of unit employee work. Investigating claims against the organization or its Board members and staff prior to litigation.

#### *Department Issues*

Meet-and-confers, other meetings, correspondence, and related activities regarding classification, policy, practices, complaints, and other issues within the scope of representation.

#### *Statewide Issues*

Meetings, discussions, and correspondence with CalHR, SPB, OAL, or other agencies regarding issues within the scope of representation.

## **B. Activities That Are Not Chargeable to Fee-Payers**

### *Member-Only Benefits*

Group Life insurance, discount programs, and other benefits or services available only to CASE members.

### *Representation of Supervisors*

CASE has a category of membership for supervisory employees. Although supervisors are not members of the unit for collective bargaining purposes, CASE does provide supervisors with representation and related services to the extent permitted by law.

### *Contributions*

Contributions to other organizations including charitable and educational groups, scholarships or grants. Includes community service programs and miscellaneous matters not related to collective bargaining.

### *Membership Recruiting*

Efforts to obtain new members. These include but are not limited to the following activities:

- Membership drives.
- Advertisements in publications.
- Organizing and servicing retired unit employees.

## **C. Administration and Other Apportionable Activities**

The following costs are primarily incurred for representational activities performed on behalf of all Unit 2 members and are therefore generally chargeable. To the extent they are performed for member-only activities, for services rendered to supervisors, or for other non-chargeable purposes, these costs are allocated or apportioned to non-chargeable. The bases for these allocations are explained in the enclosed "Schedule of Unrestricted General Operating Expenses and the Allocation of Expenses between Chargeable and Non-Chargeable for the Year Ended June 30, 2017 with Independent Auditor's Report".

### *Administrative Costs*

Various operating costs, such as staff salaries, payroll taxes and benefits, budgeting, planning and control, record keeping, accounting and auditing services, purchasing office supplies and equipment, provision of office space and utilities, computer services, off-site meetings, lodging accommodations, and travel expenses.

### *Postage and Mailing Costs*

The postage cost of mailing all letters, parcels and packages by regular U.S. mail, special delivery service, United Parcel Service, registered mail, courier service, etc.

### *Publications and Communications*

The cost of all newsletters, contracts, special mailings, correspondence, printing, copying and any radio newspaper or television space or time published, produced or purchased by CASE.

### *Union Meetings*

Meetings of local CASE members, Local Representatives, the Board of Directors or staff which are devoted to general union affairs rather than to a single specific subject covered by another category. Includes any annual conference. Includes activities open to non-members. Includes meetings specifically held to implement and administer the policies and programs developed by the Board of Directors and Board Committees to carry out the general and day-to-day representational business of the organization.

### *Education/Training*

Internal organizational workshops and other training programs in subjects regarding public sector collective bargaining for organization staff and Local Representatives for the development of their representational skills. Includes the purchase of any and all materials used by the organization to conduct its collective bargaining duties (i.e. legal reporters, periodicals, code books, case reporters, statistical and source material library for service to bargaining representatives such as pay scales, PERB decisions, ARB decisions, agency DAMS, DOMS, rules, regulations, MOU language comparisons, budgets and resource materials for training elected and paid staff). Computer systems development and training. Workshops and other training programs in such subjects.

## **II. POLITICAL ACTION (NON-CHARGEABLE)**

CASE has established a Political Action Committee (CASE-PAC). The purpose of the CASE-PAC is to educate the public, the Legislature, and Constitutional Officers regarding the significant role played by Unit 2 members in preserving and maintaining justice and the general welfare of all residents of the state; to encourage Unit 2 members to take a more active and effective part in government affairs; and to support the election of candidates for public office who are believed to be in general agreement with CASE's goals and objectives. **The CASE-PAC is now funded solely by the dues of active CASE-members and voluntary contributions. Fee-payers who would like to add their support to CASE's political action component are encouraged to submit the enclosed enrollment form.** The CASE-PAC is administered by its own Board of Trustees; administrative costs and consulting services are paid directly by the PAC from its own funds.

## **III. CHALLENGE PROCEDURES**

NOTICE: Any fee payer may challenge the amount of the fee and/or the appropriateness of expenditures he/she believes are not germane to CASE's role as exclusive representative by notifying CASE in writing. Please include your full name, department, home and work addresses, and telephone numbers. If possible, please also indicate the grounds for the challenge so that CASE may be able to consider those grounds and determine whether any further reduction in fee is warranted prior to or in lieu of the matter proceeding to outside arbitration. This notice must be mailed (postmarked) to CASE at 1231 I Street, Suite 300, Sacramento, CA 95814, no later than 30 days following the mailing of this Notice to Fee Payers.

**HEARING:** Within 45 days of the last day for filing a challenge and upon receipt of an employee's fair share fee challenge, CASE may request a prompt hearing regarding the fee before an impartial decision maker with the American Arbitration Association. Each party will bear the costs of his or her own counsel or other representative and the costs of their witnesses. All administration costs of the fee determination hearing and any per diem costs of the impartial decision maker shall be borne by CASE, unless CASE and the challenging fee payer agree otherwise. CASE may request to consolidate all pending challenges into one hearing to be held in Sacramento, California. Challengers will be notified in advance of the date, time and location of the hearing.

**ESCROW:** During the pendency of any hearing challenging the amount of the fee, CASE will place in escrow one hundred per cent of the fee that is collected from any fee payer who has timely filed a challenge. The escrow account will be independently managed and interest bearing. The accumulated funds will remain in escrow until challenges are completed and then disbursed in accordance with the decision rendered by the impartial decision maker, if not resolved earlier. Should the arbitrator order a rebate, any reduction in the amount of the fee ordered by the arbitrator will also be instituted for the remainder of the year for all challengers.

#### **IV. CONSCIENTIOUS OBJECTIONS**

Any employee who is a member of a religious body or sect whose traditional tenets or teachings include objections to joining or financially supporting employee organizations, or who has other legally recognized religious objections to such activities, is not required to financially support his or her exclusive representative. Instead, the State Controller will deduct from his or her paycheck an amount equal to the fair share fee and contribute it to a non-religious, non-labor charitable organization selected by the employee from a list of charitable organizations approved by the State Board of Control. If you believe you qualify for a religious exemption, you may request the required forms from CASE at 1231 I Street, Suite 300, Sacramento, CA 95814.

You are hereby notified that an employee who is exempt from paying his or her fee to CASE may be charged a reasonable fee for representation provided by CASE in a grievance, arbitration, or administrative hearing.

This notice to fee payers was produced in December 2017.