

# **Revised Notice to Musicians Employed Under US Collective Bargaining Agreements**

Sections 8(a)(3) and 8(b)(2) of the National Labor Relations Act permit unions in non-right-to-work states to enter into collective bargaining agreements with employers that require employees, as a condition of employment, either to join the union (and thereby enjoy the full rights and benefits of membership) or to pay fees to the union (and thereby satisfy a financial obligation to the union without enjoying the full rights and benefits of membership). That requirement serves the legitimate purpose of ensuring that each employee who benefits from union representation pays a fair share of the cost of that representation. The goal of such "union security provisions" is to eliminate "free riders" who benefit from the union contract without contributing to the union's cost of negotiating, administering, and enforcing that contract.

Where a collective bargaining agreement requires an employee to either join the union or to pay fees to the union, the fees charged to nonmembers are generally identical to the amount of union dues and initiation fees charged to union members. In a 1988 court case, *Communications Workers of America v. Beck*, the United States Supreme Court held that a nonmember has the right to object to paying any portion of the fee which will be expended on activities unrelated to collective bargaining, contract administration, or grievance adjustment. All nonmember fee payers are required to pay the portion of the fee which will support expenditures germane to the collective bargaining process, including, but not limited to negotiations, contract administration, grievance adjustment, meetings with employer and union representatives, legislative matters affecting the working conditions of employees in various industries in which musicians function, and internal union administration and litigation related to the above activities. Nonmember fee payers who object to doing so have the right not to pay the portion of the fee which will be expended on other, "non-chargeable" activities, including expenditures made for political purposes, for general community services, or for members-only benefits. In order to reduce the fee they pay to the union, objectors must follow the procedure described below.

The so-called Beck rights described above apply only to nonmembers--individuals who have resigned from the union or who have never joined. Under federal labor law, every person has the right to join and support a labor union, to refuse to join a labor union, and to resign from union membership at any time. However, only union members have the following valuable rights, among others: the right to attend local union meetings and speak out at such meetings on any and all issues affecting the local, the AFM, and its members; the right to participate in the formulation of union policy; the right to influence the nature of the local's activities and the direction of its future; the right to nominate and vote for candidates for local office and to run for office; the right to participate in the negotiation process for new or successor collective bargaining agreements; the right to participate in contract ratification votes and strike votes; the right to nominate and vote

for delegates to the AFM Convention; and the right to participate in a wide variety of benefit plans offered to union members, including the Union Privilege benefits programs, the AFM Symphony-Opera Orchestra Strike Fund, the AFM Theater Defense Fund, and the ROPA Emergency Relief Fund.

## **Objection Procedure**

1) Any nonmember who pays fees to the union pursuant to a union security provision in a collective bargaining agreement has the right to object to any portion of the fee which will be expended on activities unrelated to collective bargaining, contract administration, or grievance adjustment. Fees (like union dues) paid by musicians to AFM locals consist of various parts. All member and nonmember fee payers contribute a per capita amount to the local, which the local in turn pays to the AFM. They also pay an annual fee that is retained by the local. In addition, musicians may pay a percentage of their earnings (work dues). The exact percentage, and whether it is ultimately payable to the local or to the Federation, depends on the collective bargaining agreement, and the type of work involved. Based on an analysis of the Federation's 2007 expenditures, in excess of 90% of the Federation's expenditures were for chargeable activities such as collective bargaining, contract administration, or grievance handling. The percentage of local expenditures which are chargeable typically is higher (and the percentage of local expenditures which is non-chargeable typically is lower).

2) The objection must be in written form, signed by the objector, and sent to the local union(s) where the objector would have paid his or her dues had he or she been a member. The Local(s) will forward a copy to the International Secretary-Treasurer Sam Folio; American Federation of Musicians; 1501 Broadway, Suite 600; New York, NY 10036. The objection must contain the objector's name and address, and must identify the collective bargaining agreement(s) under which the objector works and the local(s) to which the objector pays fees.

3) The objection must be postmarked between February 1 and February 28, or within 30 days of the objector's becoming a nonmember of the union, or the objector first being required to pay fees to the union.

4) Each Local Union will determine the amount of the reduced fee and the amount, if any, of pre-paid fees to be refunded to the objector, except that the Federation will determine the reduction and refund applicable to any prepayment of Federation per capita. The reduction will be accompanied by an explanation of how the reduction amount was determined. Any objector who disagrees with the reduction amount can file an appeal. The appeal procedure will be provided to objectors together with the reduction check. The appeal must be in writing and state the basis for the challenge. Appeals will be decided by an impartial arbitrator appointed by the American Arbitration Association through its Rules for Impartial Determination of Union Fees.

5) The local and/or the Federation, as appropriate, will provide further information to an objector regarding the reduction of any work dues.

*--Further information regarding the objection procedure can be obtained by writing to International Secretary-Treasurer Sam Folio; American Federation of Musicians; 1501 Broadway, Suite 600; New York, NY 10036. Please remember that this notice is not applicable to musicians who are not required to pay union fees as a term or condition of employment under a collective bargaining agreement.*