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GENERAL INSTRUCTIONS TO LOCAL PRESIDENTS

REGARDING RELIGIOUS OBJECTORS

By Kathy O'Toole, WEA General Counsel

The local association must determine whether the religious objection is **both** religious **and** genuine.

In deciding whether to grant the objection, the local association should first ask the objector to state, in a letter to the local president, the basis of the objection. This is useful in the event a formal hearing becomes necessary.

If the local association believes the objection to be both religious in nature and genuine, then the local should grant the objection and reach agreement with the objector as to the non-religious charity to which the agency fees will be paid. There are no standards or guidelines for the local association to use in determining whether an objection is both religious and genuine; you just simply trust your instincts.

The agency fee of a person seeking a religious objection should be placed in an interest-bearing account until there has been a final determination regarding whether to grant the objection and a final decision regarding the charity to which the fee will be paid. Try to get the district to place the payroll deduction for the fee in an interest-bearing account; if the district won't do this, the local association must.

If the local association chooses to deny the objection, the local president should notify the objector in writing. If the local association decides to deny the religious objection, the objector can obtain a decision after a formal hearing by the Public Employment Relations Commission (PERC). The letter should not say why the objection is being denied, but should state that the objector has a right to request a formal PERC hearing.

I recommend to all local presidents in all cases that they grant religious objections. Very few people seek such objections because the objector must continue to pay an amount equal to full dues. PERC has ruled in the objector's favor in many cases.

WEA does not provide legal assistance if a local chooses to deny a religious objection. Instead, the local president must make whatever arrangement he or she deems best should the objector request a formal PERC hearing. However, WEA will provide a copy of a legal brief on the issue.

At the formal hearing, a hearing examiner listens to the objector's explanation of the basis of the objection. The objector need only show that he or she has a personally held religious belief that conflicts with something the association or its leaders says or does.

For example, PERC has granted religious objections to people whose religious belief prohibited lying, where the objector testified that the leadership of the local association had lied. It is not very difficult for an objector to convince a PERC hearing examiner that the objection is both religious and genuine.

After the objector explains the basis of his or her beliefs, the local association has a chance to prove to the hearing examiner that the objection is not religious in nature, is not genuine, or that the associations' position does not in fact conflict with the objector's religious beliefs. After hearing the evidence and allowing the parties to submit briefs, the hearing examiner issues a formal decision. It normally takes at least a year for PERC to decide a religious objection case.

ALTERNATE PLAN (NOT RECOMMENDED)

*Do not mention either of these options to agency fee payers, unless the person **both** expresses reluctance to financially support NEA and/or WEA **and** a willingness to financially support local and/or WEA.*

In that situation, you may consider offering such a fee payer the choice of having NEA's portion of the fees divided between the state and local associations, which would increase revenues for WEA and the locals. If that option is unacceptable to the religious objector, you might offer the option of contributing the NEA share of the fee to a non-religious charitable organization.