

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY**

**JEANNEAN COCHRAN, PAULA BARR, CHERRI  
BECKHART, MELINDA DIEMER, VIRGIE  
FIETSCH, SHARON MARYMAN, MELISSA  
SHINA, BRENDA STEPHENS, KELLI THOMAS ,  
WENDY YATES, AND YOLANDA YANCEY,  
AND THE CLASS THEY SEEK TO REPRESENT,**

**PLAINTIFFS,**

**v.**

**JEFFERSON COUNTY PUBLIC SCHOOLS  
BOARD OF EDUCATION, DONNA M.  
HARGENS, , IN HER OFFICIAL CAPACITY, AS  
SUPERINTENDENT OF JEFFERSON COUNTY  
PUBLIC SCHOOLS AND/OR OF JEFFERSON  
COUNTY BOARD OF EDUCATION, AMERICAN  
FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES, AFL-CIO,  
AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, INDIANA-  
KENTUCKY ORGANIZING COMMITTEE 962,  
AND JEFFERSON COUNTY ASSOCIATION OF  
EDUCATIONAL SUPPORT PERSONNEL,  
AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES LOCAL 4011,**

**DEFENDANTS.**

**CIVIL ACTION No. 3:15-cv-751-GNS**

**CLASS ACTION VERIFIED  
COMPLAINT**

**Date: September 23, 2015**

**PRELIMINARY STATEMENT**

1. Plaintiffs and the class they seek to represent are Job Family 1A classified employees employed by Defendant Jefferson County Board of Education ("JCBE") and Donna M. Hargens ("Hargens") (collectively "Board" or "Board of Education"). Plaintiffs and the proposed class are each exclusively represented by Defendant Jefferson County Association of

Educational Support Personnel, American Federation of State, County, and Municipal Employees Local 4011 (“Local 4011”), but are not members of that Union. These nonmembers are being forced to pay union fees to as a condition of their employment pursuant to the current collective bargaining agreement (“CBA”) between the Board, American Federation of State, County, and Municipal Employees Indiana-Kentucky Organizing Committee 962 (“Council 962”), and Local 4011.

2. Plaintiffs allege that the collection of compulsory fees from them violates their rights under the First Amendment to the United States Constitution. Plaintiffs allege that the CBA’s requirement that they pay compulsory fees is itself unconstitutional. Plaintiffs and the class they seek to represent also allege that Defendants Board, Local 4011, Council 962, and American Federation of State, County, and Municipal Employees, AFL-CIO (“AFSCME”) have failed to provide them with proper notice and procedural safeguards pursuant to *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986), before collecting compulsory fees from them.

3. Thus, Plaintiffs seek: (a) a declaratory judgment that the CBA’s compulsory fee provision for nonmembers violates the First Amendment; (b) injunctive relief that prohibits all future enforcement of the CBA’s compulsory fee provision; and (c) damages from the Unions for compulsory fees wrongfully seized from them. Plaintiffs and the class seek: (a) a declaratory judgment that procedures set forth in the CBA and Council 962’s fee notices are inadequate under *Hudson*, and thus Defendants’ collection of compulsory fees from them in the absence of constitutionally adequate procedures violated the First Amendment rights of Plaintiffs and the class; (b) injunctive relief that prohibits Defendants from seizing compulsory fees from them until proper *Hudson* procedures are provided; and (c) damages and/or restitution from the Unions



for compulsory fees wrongfully seized from them in the absence of proper *Hudson* notice and procedures.

### **JURISDICTION AND VENUE**

4. This action arises under the First and Fourteenth Amendments to the United States Constitution. This Court's jurisdiction is invoked under 28 U.S.C. § 1331, and also under 28 U.S.C. § 1343 because Plaintiffs and the class they seek to represent seek relief under 42 U.S.C. § 1983, to redress the deprivation, under color of state law, of rights, privileges, and immunities secured by the United States Constitution.

5. This is a case of actual controversy in which Plaintiffs seek a declaration of their rights under the United States Constitution. Under 28 U.S.C. §§ 2201 and 2202, this Court may declare the rights of Plaintiffs and class members and grant further necessary or proper relief based thereon.

6. Pursuant to 28 U.S.C. § 1391(b), venue is proper in this Court because Defendants reside, have offices in, and/or conduct their business in this judicial district, and because the events giving rise to the claims occurred in this district. Defendant Unions are unincorporated associations or corporations with contacts sufficient to subject them to personal jurisdiction in this judicial district.

### **PARTIES**

7. Plaintiffs Jeannean Cochran, Paula Barr, Cherri Beckhart, Melinda Diemer, Virgie Fietsch, Sharon Maryman, Melissa Shina, Brenda Stephens, Kelli Thomas, Wendy Yates, and Yolanda Yancey, and the class they seek to represent (collectively "the Nonmembers") are employed in the Jefferson County Public Schools in Jefferson County, Kentucky, as employees in the Job Family 1A classification and salary schedule ("Job 1A") for

the 2014-15 and/or 2015-16 school years. Plaintiffs, who have been forced by Defendants to be represented exclusively for purposes of collective bargaining, by Local 4011 and its affiliates, Council 962 and AFSCME, are not members in the Unions, and object to financially supporting Local 4011 and its affiliates. But for the CBA's "agency shop" compulsory fee provisions, Plaintiffs Cochran, Barr, Beckhart, Diemer, Fietsch, Maryman, Shina, Stephens, Thomas, Yates, and Yancey would not have paid and/or continue to pay fees to or otherwise subsidize Local 4011, Council 962, and/or AFSCME.

8. Defendant AFSCME is an unincorporated association and a labor organization. AFSCME is the international affiliate to Local 4011 and Council 962. AFSCME's headquarters are located at 1625 L Street, N.W., Washington, D.C. 20036. AFSCME has collected and used compulsory fees from Plaintiffs and class members.

9. Defendant Council 962 is an unincorporated association and a labor organization, and is the regional affiliate to Local 4011 and AFSCME. Council 962 conducts business in Indiana and Kentucky, and maintains its principal place of business at 1424 North Pennsylvania Street, Indianapolis, Indiana 46202. Council 962 also maintains an office at 4315 Preston Highway, Suite 101, Louisville, Kentucky 40213. Council 962 is a party to the CBA with Defendant Board and Local 4011. Council 962 has also demanded, collected, and used compulsory fees from nonmember Plaintiffs and class members as a condition of public employment. Council 962 used to be AFSCME Council 62, and thus any references to ASFCME Council 62 are also references to Council 962.

10. Defendant Local 4011 is an unincorporated association and a labor organization, and is the local affiliate to Council 962 and AFSCME. Local 4011 conducts business in Kentucky, and maintains an office at 4315 Preston Highway, Suite 101, Louisville, Kentucky



40213. Local 4011 is a party to the CBA with the Board and Council 962, which requires nonmember Plaintiffs and class members to pay union fees to Local 4011 and/or its affiliates as a condition of public employment. Local 4011 represents all Job 1A employees in Jefferson County Public Schools system, including Nonmembers.

11. Defendant Jefferson County Board of Education is located at 3332 Newburg Road, Louisville, Kentucky 40218. Under state law, JCBE is a body politic and corporation existing under Kentucky Revised Statutes § 160.010 *et seq.* JCBE's duties include controlling and managing school funds, fixing compensation for its employees—including Plaintiffs and all Job 1A employees—and making rules and regulations as to the qualifications and duties of its employees. JCBE is also empowered by state law to make contracts and to sue and be sued. JCBE is a public employer that conducts business and operations within the Commonwealth of Kentucky and this judicial district. JCBE is a party to the CBA with Local 4011 and Council 962. Pursuant to the CBA, JCBE has deducted compulsory union fees from nonmember Plaintiffs and the class, which is a condition of their public employment.

12. Defendant Donna M. Hargens is Superintendent of the Jefferson County Public Schools and is the executive officer of Defendant JCBE, pursuant to Kentucky Revised Statutes, §§ 160.350 and 160.370. As such, Ms. Hargens has the duty to ensure that all of JCBE's rules and regulations, as well as state laws relating to the schools, are enforced. She is also responsible for hiring and firing all employees in the school district. Ms. Hargens is a party to the CBA with JCBE, Council 962, and Local 4011, and has deducted union fees from Nonmembers. Ms. Hargens is sued in her official capacity.

### CLASS ACTION ALLEGATIONS

13. Plaintiffs' action is a class action brought by Plaintiffs on their own behalf and on behalf of others similarly situated, pursuant to Federal Rules of Civil Procedure 23(b)(1)(A) and (b)(2).

14. The class consists of all non-union employees in Job Family 1A job classification and salary schedule who are, were, or will be required to pay compulsory fees to Council 962 and/or AFSCME for these Unions' 2014 and/or 2015 fee years, and every fee year thereafter, pursuant to a compulsory unionism agreement between Local 4011, Council 962, and their public employer, the Board of Education. The Nonmembers have been required to pay forced fees to the Unions under the current CBA since 2012. *See* Between the Jefferson County Board of Education and the Jefferson County Association of Educational Support Personnel American Federation of State County and Municipal Employees on behalf of Local 4011, JCBE-JCAESP/AFSCME Agreement, effective July 1, 2012 through June 30, 2017, Article 4, ¶ 2 ("CBA"). Relevant portions of the CBA are attached hereto and incorporated by reference herein as Exhibit A.

15. On information and belief, the number of persons in the class exceeds 900 persons for the 2014-15 and subsequent school years. Those persons are therefore so numerous that joinder of the entire class is impractical.

16. There are questions of law and fact common to all members of the class. These questions include:

(a) whether Article 4, Paragraph 2 of the CBA between Local 4011, Council 962, and the Board of Education violates the First and Fourteenth Amendments of the United States Constitution because the notice and procedural requirements it establishes



for the collection of compulsory fees from nonmembers: (i) restrict Nonmembers' right to file their challenges to the Unions' fee calculations before a court of competent jurisdiction; (ii) require, as one of the two options before proceeding to a court of competent jurisdiction, that Nonmembers file their fee challenges pursuant to internal union procedures; and (iii) require Nonmembers who file their fee challenges pursuant to internal union procedures to do so by certified or registered mail;

(b) for Council 962 and AFSCME's 2014 fee year, whether the Board and the Unions seized compulsory fees from Nonmembers without first providing them with all of the required notice and procedural safeguards, including: (i) financial disclosure of Council 962's and AFSCME's total expenses, and the breakdown of their respective total expenses into chargeable and non-chargeable categories; (ii) copies of an independent auditor's verification of Council 962's and AFSCME's calculations of their respective chargeable forced fees; (iii) the identity of the independent, third-party holding the escrow account while nonmembers' fee challenges were pending, and when those fees would be escrowed; (iv) unburdened challenge procedures; and

(c) for Council 962 and AFSCME's 2015 fee year, whether the Board and the Unions are seizing compulsory fees from Nonmembers without first providing them with all of the required notice and procedural safeguards, including: (i) financial disclosure of Council 962's and AFSCME's total expenses, and the breakdown of their respective total expenses into chargeable and non-chargeable categories; (ii) copies of independent audit verification of these Unions' calculations of their respective chargeable forced fees; (iii) the identity of the independent, third-party holding the escrow account while the nonmembers' fee challenges were pending; and (iv) established procedures for a

reasonably prompt decision by an impartial decisionmaker of nonmember employees' fee challenges, including: (1) the selection process for the impartial decisionmaker, and the Unions' involvement in such a process; (2) a procedural timeline for nonmembers' challenges to be heard; and (3) no requirement that a nonmember's social security number be disclosed for the fee challenge to be heard.

17. Plaintiffs' claims are typical of members of the class, all of whom are subject to the same deprivations of their rights by the Board, Council 962, and AFSCME's enforcement and implementation of the CBA, which authorizes the collection of compulsory union fees without the required pre-collection notice and procedural safeguards as set forth in *Hudson*. Plaintiffs' claims are also typical of the class because they are all subject to the same deprivation of their rights by the Board and Unions' collection of compulsory fees from them without the pre-collection notice and procedural safeguards in Council 962's 2014 and 2015 fee notices, as required by *Hudson*.

18. Plaintiffs Cochran, Diemer, Shina, and Thomas (collectively "class representatives") can adequately represent the interests of each class. The class representatives have no interests related to the subject matter of this lawsuit that are antagonistic to other class members who chose not to be members in or represented by Local 4011 or its affiliates, and are: (a) subject to the same unlawful provisions in the CBA, which provides for the collection of fees from all nonmembers without all of the constitutionally required pre-collection notice and procedures; and (b) are forced to pay forced fees to Council 962 and AFSCME despite not receiving the constitutionally-required pre-collection notice and procedural safeguards for these Unions' 2014 and/or 2015 fee years. In addition, Plaintiffs' attorneys are provided by a national charitable legal aid organization and are experienced in representing nonunion employees in



litigation, including class actions, involving issues identical or similar to those raised in this action and pertaining to the class.

19. The CBA's provision, Article 4 Paragraph 2, which establishes fee collection procedures for nonmembers, applies equally to all nonmember Job 1A employees—including the class representatives and the proposed class. Additionally, Council 962 and AFSCME's duty to provide all of the constitutionally required notice and procedures to all Nonmembers before collecting fees from them applies equally to all who are in the respective class.

20. Alternatively, the questions of law or fact common to the members of the class predominate over any questions affecting only individual members in that the important and controlling questions of law and fact are common to all members of the class. For example, whether the notice and procedures set forth in the CBA for the collection of forced fees violate the First and Fourteenth Amendments of the United States Constitution; and whether Council 962 and AFSCME have complied with all of "the constitutional requirements for the . . . collection of agency fees," *Hudson*, 475 U.S. at 310, are common to all class members.

21. A class action is superior to other available methods for the fair and efficient adjudication of the controversy, in that individual class members are deprived of the same constitutional rights by the Board's, AFSCME's, and Council 962's actions, differing only in immaterial aspects of their factual situations. The limited amount of money at stake for each individual employee makes it burdensome for class members to maintain separate actions.

22. The affiliation among the Unions presents an organizational structure that makes it expedient for the named Plaintiffs and proposed class members to proceed against Council 962 and AFSCME.

23. The Board, AFSCME, and Council 962 have acted and threaten to continue to act to deprive Plaintiffs and each class member of their constitutional rights on grounds generally applicable to all, thereby making appropriate declaratory, injunctive, and other equitable relief with regard to the class as a whole.

### **STATEMENT OF FACTS**

#### **The CBA and Its Compulsory Unionism Requirement for Job 1A Classified Employees**

24. Without express statutory authorization and acting under color of state law, the Board of Education entered into a CBA with Council 962 and Local 4011 that recognized Local 4011, and its affiliates, as the official bargaining representative, for purposes of collective bargaining, of all Job 1A classified employees, including Nonmembers. The CBA is effective July 1, 2012 through June 30, 2017. Ex. A at 34.

25. The authority of the Board, Council 962 and Local 4011 to enter into a CBA that recognizes and imposes Local 4011 and its affiliates' official representation, and the CBA's provisions, upon all Job 1A employees in the absence of statutory authorization, is currently being challenged in state court proceedings. *Beckhart, et al. v. Jefferson Cty. Bd. of Educ., et al.*, Case No. 2015-SC-356. The case awaits a decision from the Kentucky Supreme Court as to whether it will review an appeal from the Kentucky Court of Appeals. The facts and issues raised in this Complaint do not concede that the Board's, Council 962's, and Local 4011's actions are lawful. They are raised merely to preserve the Nonmembers' constitutional rights while the state court case is proceeding.

26. As the designated "official" bargaining representative, all Job 1A employees are represented exclusively by Local 4011 for purposes of bargaining with the school district.



27. The CBA establishes terms and conditions of employment for all Job 1A employees, including Nonmembers. No state law defines the “terms and conditions of employment” over which a board of education and a labor union can collectively bargain for public education employees. Nevertheless, Council 962 and Local 4011 collectively bargained with the Board over wages, hours of employment, and other terms and conditions of employment, such as “working conditions,” “safety,” “leaves of absence,” “evaluation” procedures, employee “discipline,” “assignment/overstaff/reassignment” procedures, “transfers,” “reorganization/ demotion,” and the unions’ involvement in selecting individuals to serve on the “School Calendar Committee,” for all Job 1A employees, including Nonmembers. Ex. A at 11-13, 14-22, 23-24, 26-27, 30.

28. The subjects of collective bargaining in the CBA concern matters of political and public concern over which employees and other citizens may have divergent views and opinions.

29. Exclusive or official representation, where only one union or employee representative negotiates on behalf of all employees in a group, including nonmembers, is not necessary to maintain order and peace among employees in public workplaces because, among other things, public employers have other means to ensure workplace discipline.

30. On information and belief, exclusive or official representation assists unions with recruiting members because, among other things: (a) employees are more likely to join and support a union that has authority over their terms of employment, as opposed to a union that does not; (b) exclusive or official representatives are entitled to information about all employees in the unit; and (c) exclusive and official representatives can negotiate contract terms that facilitate recruiting and retaining members, such as contract terms providing for union

orientations for all employees and automatic deduction of union dues and/or fees from employees' paychecks.

31. Although Defendants do not require Job 1A employees to be union members, they do require in the CBA that nonmember employees pay a "fair share" or agency fee to Local 4011 and/or its affiliates as a condition of employment. This "compulsory unionism" or "agency shop" clause, states:

Employees who are included in the collective bargaining unit, but decline membership . . . shall be required to pay, in lieu of union dues, a fair share fee equal to the part of the union dues that the union is entitled to be paid under applicable federal and state law for representing the non-member employees in matters of collective bargaining, grievance and contract administration. The fair share fee will be deducted automatically from the wages of each non-member employee for every pay period for which the non-member is scheduled to work in equal amounts in (16) equal payments from, from October through May, beginning with the effective date of memorandum of agreement, for so long as the non-member employee is not a member of the union. Such monies shall be transmitted to the union.

Ex. A at 7.

32. Pursuant to the CBA, Local 4011 "annually certify[ies] in writing the current and proper amount of its membership dues and fair share fee, at least thirty (30) days prior to the initial deduction." *Id.* To do so, Local 4011 must provide the Board with a "written notice thirty (30) days prior to any fair share fee deduction, and annually thereafter, an affidavit which states the amount of the fair share fee," accompanied by an independent audit verifying the calculation of such fee. *Id.* The compulsory fee amount "shall not exceed the amount of the dues uniformly required to be paid by members of the union." *Id.*

33. Pursuant to the governing documents of AFSCME and Council 962, membership in the local affiliates also constitutes membership in AFSCME and Council 962. Because these Unions are affiliates of Local 4011, they can charge, and do charge, Nonmembers fees for their



respective activities at the international and regional levels. Local 4011 does not charge fees for its representation at the local level. Thus, the “fair share” or agency fee charged to Nonmembers includes fees for Council 962 and “affiliate fees” or “per capita” fees for AFSCME.

34. Unions receive significant revenue from member dues and nonmember fees. For example, over 93% of AFSCME’s 2013 revenue—more than \$192 million—was from dues and fees. OFFICE OF LABOR-MGMT. STANDARDS (“OLMS”), DEP’T OF LABOR, LM-2 Report, Statement B “Receipts and Disbursements”, <https://olms.dol-esa.gov/query/getOrgQry.do> (for “Union Name by Abbreviation,” select “AFSCME-STATE COUNTY & MUNI EMPLS AFL-CIO” from the list, then for “Union Type,” select “International,” and select “Submit,” and on the linked page, under the “Fiscal Year” field, select “2013 Report”). In 2014, over 85% of AFSCME’s revenue of \$208 million was from dues and fees. *Id.* (in the field, “Enter File Number (if known),” enter number “000-289,” and select “Submit.” On the linked page, under the “Fiscal Year” field, select “2014 Report”). Similarly, from July 1, 2012 to June 30, 2013, Council 962’s revenue was about \$4.3 million, over \$3.8 million of which was from dues and fees. OLMS, DEP’T OF LABOR, LM-2 Report, AFSCME Leadership Council 62, Statement B “Receipts and Disbursements”, <http://kcerds.dol-esa.gov/query/orgReport.do> (for “Union Name by Abbreviation,” select “AFSCME-STATE COUNTY & MUNI EMPLS AFL-CIO” from the list, for “Union Type,” select “Intermediate” from the list, for “Designation Number,” enter “62” and select “Submit,” and on the linked page, under “Affiliation/Organization Name,” select “STATE COUNTY & MUNI EMPLS AFL-CIO LEADERSHIP COUNCIL 62.” On the next linked page, under the “Fiscal Year” field, select “2013 Report”).

35. In coordination with their positions in the collective bargaining process, AFSCME, Council 962, and Local 4011 routinely engage in political advocacy and encourage

their membership to engage in political activism on a wide range of issues where other employees and citizens may have differing opinions. For example, Council 962 provided support to stop “the passage of [Kentucky’s] annual charter school bill and repeal of prevailing wage legislation.” Alex White, *Kentucky Capitol Recap: Right to Work, 2015 In Review And The Year Ahead Of Us*, AFSCME IKOC 962 NEWS, May 2015, at 1, 5, <http://www.afscme962.org/docs/5-15%20AFSCME%20IKOC%20962%20for%20website.pdf>. Council 962 also attempted to meet with a state political candidate to reinstate “ACE awards, tax reform, and . . . continued reform of our state’s retirement system.” *Id.* Further, Council 962 hosts an annual “Lobby Day” for employees to advocate for certain issues with their state legislators. Alex White, *Capitol Recap: 2014 In Review*, AFSCME IKOC 962 NEWS, May 2014, at 1, 2, <http://www.afscme962.org/docs/5-14%20AFSCME%20IKOC%20962%20%20for%20WEBSITE.pdf>. Finally, Council 962 encouraged its members to lobby before the Kentucky State Legislature to oppose a Right to Work bill, which, if passed, would benefit nonunion employees. *STATE LEGISLATIVE LOBBY DAYS: Check Out What Can Happen When We Get Active!*, *id.* at 1, 2, <http://www.afscme962.org/docs/5-15%20AFSCME%20IKOC%20962%20for%20website.pdf>.

36. AFSCME and its affiliates are also major donors to the Democratic Party. Combining all federal election cycles from 1990 to 2016, AFSCME spent almost \$94 million in political contributions, 55 % of which went to Democratic candidates, while only 1 % went to Republican candidates. *Total Contributions by AFSCME*, Center for Responsive Politics, <https://www.opensecrets.org/orgs/totals.php?id=D000000061&cycle=2014> (last visited Sept. 10, 2015). In the 2014 election cycle, AFSCME contributed over \$ 2 million to Democratic federal congressional candidates, and only \$7,250 to Republicans. *Money to congressional candidates:*



2014 Cycle by AFSCME, Center for Responsive Politics,

<https://www.opensecrets.org/orgs/toprecips.php?id=D000000061&cycle=2014> (last visited Sept. 10, 2015).

37. Consistent with its role and positions in politics and public advocacy in past years, in the fee notices Council 962 provided to Nonmembers for the Unions' 2014 and 2015 fee years, AFSCME acknowledges that it uses its compulsory fees from nonmembers for "[p]ursuing ratification or implementation of agreements affecting employees represented by AFSCME before legislative or administrative bodies." AFSCME Council 962, 2014 Notice to All Non-Member Fair Share Fee Payer Kentucky, 2 (2014) ("2014 Notice"); AFSCME Council 962 2015 Notice to All Non-Member Fair Share Fee Payer Kentucky, 2 (2015) ("2015 Notice"). A copy of the 2014 and 2015 Notices are attached hereto and incorporated by reference herein as Exhibit B and Exhibit C, respectively.

38. Similarly, in the 2014 and 2015 Notices AFSCME states that examples of how it uses nonmember compulsory fees include:

communications with employers, elected officials, governmental agencies, and media with respect to AFSCME position on collective bargaining related matters; lobbying and legislative activities with respect to matters concerning the negotiation, ratification or implementation of collective bargaining agreements; and providing legal, economic and technical expertise on behalf of employees in all work-related matters.

Ex. B at 2-3; Ex. C at 2-3.

39. As demonstrated *supra*, AFSCME and Council 962 use nonmember fees on a wide range of political and public policy issues that employees, including Nonmembers and citizens, may hold different views on than those of the Unions.

40. On information and belief, compulsory fees are not necessary to maintain order or labor peace in the workplace because, among other reasons, exclusive or official representation does not depend on the right to collect a fee from nonmembers.

#### **Union Fee Calculations and Procedures**

41. When a union collects compulsory fees from an employee, it must annually provide the employee with a “*Hudson*” notice that, among other things, explains how the union calculated the fee. *See Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986). A union calculates a compulsory fee by first defining which types of activities it deems “chargeable” and “nonchargeable” to nonmember employees, and by then determining what percentages of the union’s expenses in a prior fiscal year were chargeable and non-chargeable. The compulsory fee is set at the prior fiscal year’s chargeable percentage.

42. The union’s calculation in paragraph 41 must be based on an independent audit of the union’s expenditures. However, the auditors do not confirm whether the union has properly classified its expenditures as “chargeable” or “nonchargeable.”

43. If a nonmember disagrees with the union’s classification of expenses as chargeable, he can challenge the classification either in the legal proceedings provided in the union’s “*Hudson*” notice or in a court of law.

44. In an attempt to give the appearance of complying with *Hudson*, Defendants Board, Local 4011 and Council 962 laid out certain requirements in the CBA of notice and procedures that Local 4011 and/or its affiliates must provide to nonmember Job 1A employees regarding their compulsory fees in order to collect such fees. Ex. A at 6-7.

45. The CBA provides Nonmembers with options to challenge the Unions’ compulsory fees, the last that states Nonmembers can file a fee challenge in “a complaint against



the union in a court of competent jurisdiction.” *Id.* at 7. But the CBA conditions the Nonmembers’ access to court by first requiring them either to file their fee challenge with the Louisville Labor Management Committee or use the Unions’ internal challenge proceedings. *Id.*

46. If a nonmember chooses to file his challenge pursuant to internal union proceedings, the CBA additionally burdens the nonmember by requiring him to file his challenge by certified or registered mail. *Id.* at 6-7.

47. In addition to the CBA, AFSCME and Council 962 have established policies and procedures regarding the collection of their respective portions of compulsory fees from nonmembers.

48. Pursuant to the Unions’ internal policies and procedures and the CBA, at various dates in late December 2013 and early January 2014, Council 962 mailed the Nonmembers its 2014 Notice concerning their forced fee obligations for the Unions’ 2014 fee year, which encompassed the 2013-14 and 2014-15 school years.

49. In the 2014 Notice, Council 962 determined the compulsory fee amount to be \$12.10 biweekly. The 2014 Notice also stated the percentage of AFSCME’s and Council 962’s total expenses they considered chargeable to nonmembers, and the fee amounts based on the “weighted average of these two figures.” However, the 2014 Notice failed to include:

(a) any financial disclosure of AFSCME’s and/or Council 962’s expenses and the breakdown of their respective total expenses into chargeable and nonchargeable categories;

(b) any financial disclosure, verified by an independent auditor, of AFSCME’s and Council 962’s total expenses, or verification of the Unions’ expense breakdown into chargeable and nonchargeable categories; and

(c) the identity of the independent, third-party holding the escrow account while nonmembers' fee challenges were pending, and when the fees would be placed in escrow.

The 2014 Notice also required nonmembers to include their social security numbers when filing a fee challenge.

50. On or about March 28, 2014, the Comptroller for Council 962, Roger Poer, sent a letter to Nonmembers that explained their fee amount was \$13.11, not \$12.10. Although the letter stated that a "corrected Fair Share notice" was included, no such notice was enclosed. A copy of the letter is attached hereto and incorporated by reference herein as Exhibit D.

51. Also pursuant to the CBA and the Unions' internal policies and procedures, on or about December 16, 2014, Council 962 mailed the Nonmembers its 2015 Notice concerning their forced fee obligations for the Unions' 2015 fee year, which encompasses the 2014-15 and 2015-16 school years.

52. In the 2015 Notice, Council 962 determined the compulsory fee to be \$14.92 biweekly. That Notice also stated the percentage of AFSCME's and Council 962's total expenses considered chargeable to nonmembers, and the fee amount based on the "weighted average of these two figures." The 2015 Notice failed to include:

- (a) any financial disclosure of AFSCME's and/or Council 962's expenses and the breakdown of the Unions' total expenses into chargeable or nonchargeable categories;
- (b) any financial disclosure, verified by an independent auditor, of AFSCME's and Council 962's total expenses or verification of the Unions' expense breakdown into chargeable and nonchargeable categories;



(c) the selection process for choosing an impartial decisionmaker to preside over the nonmembers' fee challenges, and the Unions' involvement in such process; and a timeline to initiate the hearings or other legal proceedings involving the nonmembers' fee challenges; and

(d) the identity of the independent, third-party holding the escrow account while the nonmembers' fee challenges were pending, and when the fees would be deposited into the escrow account.

The 2015 Notice also required nonmembers to include their social security numbers when filing a fee challenge.

53. On information and belief, after Council 962 sends out its notice in December each year, the Board deducts the new fee amount stated in the new notice from the wages of each nonmember employee from late December of that same year to May of the next year, and then from October, which includes pay for September, to mid-December of the next year.

54. Despite the CBA's and the Unions' failure to provide all of the constitutionally required pre-collection notice and procedural safeguards to the Nonmembers in the 2014 and 2015 Notices, the Board automatically deducted compulsory fees from Nonmembers' wages \$13.11 from late December 2013 to May 2014, and from on or about October 10, 2014, which included pay for September, to December 19, 2014, and \$14.92 from January 2, 2015, which included pay for late December 2014, to on or about May 22, 2015. On information and belief, the Board will begin again to automatically deduct union fees of \$14.92 from Nonmembers' wages on or about October 9, 2015. The Board will continue these deductions unless enjoined by this Court.

55. The Board transferred the compulsory fees it deducted from Nonmembers' wages for the time frames set forth in paragraph 54, *supra*, to Local 4011, Council 962, and/or AFSCME. The Board will continue to transfer such fees to the Unions beginning again on or about October 9, 2015, unless enjoined by this Court.

56. Local 4011, Council 962, and AFSCME act under color of state law by causing, participating in, and accepting the compulsory deduction of fees from nonmember Plaintiffs and proposed the class. Council 962 and AFSCME have used fees seized from Nonmembers by the Board for these Unions' use, benefit and enjoyment, and will continue to use such seized fees absent proper "*Hudson*" procedures, unless enjoined by this Court.

**Plaintiffs Oppose to Being Forced to Pay Compulsory Fees to the Unions**

57. Plaintiffs repeat and reallege paragraphs 1 through 56 of this Complaint as if fully set forth herein.

58. Plaintiffs object to many of the public policy positions that AFSCME and Council 962 advocate.

59. Plaintiffs also object to Local 4011's, Council 962's and AFSCME's representation of them, believing that the Unions' actions do not reflect their best interests or the interests of other Job 1A classified employees.

60. On information and belief, in coordination with their express political advocacy, the Unions routinely take positions in the collective-bargaining process that greatly affect the Board's budget.

61. On information and belief, when the Unions expend monies collected pursuant to the CBA from nonmember Plaintiffs, to lobby or bargain against reductions to their own benefits packages or to shift more significant reductions to other district programs or services, there is no



principled distinction between the Unions and other various special interest groups who must expend money on political activities to protect their own favored programs and services.

62. But for the CBA requiring compulsory fees, Plaintiffs Cochran, Barr, Beckhart, Diemer, Fietsch, Maryman, Shina, Stephens, Thomas, Yates, and Yancey would not have paid or pay any fees or otherwise subsidize AFSCME, Council 962 and/or Local 4011.

63. Plaintiffs have “the right not to be forced to contribute to the union, with which they broadly disagree.” *Harris v. Quinn*, 134 S. Ct. 2618, 2632, 2640 (2014).

### CLAIMS FOR RELIEF

64. The Nonmembers repeat and reallege paragraphs 1 through 63 of this Complaint as if fully set forth herein.

65. The Nonmembers’ decision not to join or be members of, resign from union membership, and/or pay dues to AFSCME and Council 962, is an exercise of their rights to freedom of speech and association guaranteed against state action by the First and Fourteenth Amendments to the United States Constitution.

66. The CBA’s compulsory fee provision infringes on nonmember Plaintiffs’ First Amendment rights and those of other employees because compulsory fee requirements compel employees to support speech and petitioning against their will, and to associate with a union against their will.

67. “[C]ompulsory subsidies for private speech are subject to exacting First Amendment scrutiny and cannot be sustained unless two criteria are met. First, there must be a comprehensive regulatory scheme involving a ‘mandated association’ among those who are required to pay the subsidy.” *Knox v. SEIU*, 132 S. Ct. 2277, 2289 (2012) (citation omitted). “Such situations are exceedingly rare because . . . mandatory associations are permissible only

when they serve a compelling state interest . . . that cannot be achieved through means significantly less restrictive of associational freedoms.” *Id.* (citation omitted). “Second, even in the rare case where a mandatory association can be justified, compulsory fees can be levied only insofar as they are a ‘necessary incident’ of the ‘larger regulatory purpose which justified the required association.’” *Id.* (citation omitted).

68. In *Abood v. Detroit v. Board of Education*, 431 U.S. 209 (1977), the Supreme Court held the seizure of compulsory fees in the public sector to be constitutional because the fees were justified by state interests in labor peace and avoiding free riders. However, the *Abood* court failed to subject these ostensible justifications to aforementioned requisite constitutional scrutiny.

69. In *Harris*, 134 S. Ct. at 2632, a majority of the Supreme Court questioned *Abood*’s continued validity on several grounds.

70. In *Friedrichs v. California Teachers Ass’n*, 2014 WL 10076847 (9th Cir. Nov. 18, 2014), *cert. granted*, 83 U.S.L.W. 3653 (U.S. June 30, 2015) (No. 14-915), the Supreme Court granted review to consider the question: “Whether [*Abood*], should be overruled and public-sector agency shop” arrangements invalidated under the First Amendment.” Pet. for Cert., \* i.

71. Plaintiffs submit that *Abood* was wrongly decided, should be overturned by the Supreme Court, and that the seizure of compulsory fees is unconstitutional under the First Amendment. Among other things, no compelling or otherwise sufficient state interest justifies compulsory fees.

72. In the alternative, the First and Fourteenth Amendments to the United States Constitution require that the procedures for the collection of compulsory union monies be carefully tailored to limit the infringement on the fundamental rights of nonunion employees to



serve whatever plausible compelling state interest may exist to justify such union monies in the manner least restrictive of the nonunion employees' freedoms of speech and association, and to facilitate the nonunion employees' ability to protect their rights.

73. The notice and procedural safeguards required by the First and Fourteenth Amendments when an employee is a nonmember of the union include:

- (a) notice to nonmember employees, before union fees are collected, that adequately explains the basis for the amount of the "agency fee," including an allocation of major categories of expenses between lawfully chargeable and nonchargeable activities, verified by an independent auditor;
- (b) an adequate advance rebate or reduction of the fee;
- (c) a reasonably prompt opportunity to challenge the amount of the fee before an impartial decisionmaker; and
- (d) an escrow for the amounts reasonably in dispute while such challenges are pending. *Hudson*, 475 U.S. at 305-07, 310.

74. To protect their constitutional rights of free speech and association, Plaintiffs and the class they seek to represent must be provided with all of the pre-collection notice and procedural safeguards that will ensure none of their wages is either collected or spent for improper purposes, as enunciated by the Supreme Court in *Hudson*.

**COUNT I**  
(Violations of 42 U.S.C. § 1983 and  
the United States Constitution)

75. The Nonmembers repeat and reallege paragraphs 1 through 74 of this Complaint as if fully set forth herein.

76. By requiring Plaintiffs to make any financial contributions in support of any union, the CBA's compulsory fee provision, Article 4, Paragraph 2, violates Plaintiffs' rights to

free speech and association under the First and Fourteenth Amendments to the United States Constitution.

77. Plaintiffs have no adequate remedy at law.

**COUNT II**  
(Violations of 42 U.S.C. § 1983 and  
the United States Constitution)

78. The Nonmembers repeat and reallege paragraphs 1 through 77 of this Complaint as if fully set forth herein.

79. Article 4 of the CBA between the Board, Council 962, and Local 4011, which establishes certain fee collection procedures that Local 4011 and/or its affiliates must provide to nonmember Job 1A employees to collect fees from them,<sup>1</sup> including Plaintiffs and the proposed class, violates the First and Fourteenth Amendments of the United States Constitution in that it:

(a) purports to restrict the Nonmembers' option to pursue their fee challenges in a "court of competent jurisdiction";

(b) purports to require the Nonmembers to pursue internal union procedures as before proceeding to a court of competent jurisdiction; and

(c) unduly restricts the Nonmembers' ability to object and challenge the Unions' fee calculation by including a requirement that Nonmembers file their fee challenges pursuant to internal union procedures by certified or registered mail.

80. To the extent that Article 4 in the CBA subjects Defendants to a lower standard of notice and procedures for the collection of fees from nonmembers than is constitutionally required under the First Amendment to the United State Constitution, as set forth in *Hudson* and its progeny, Article 4 violates the First and Fourteenth Amendments to the United States Constitution, and is void as against public policy, invalid, and unenforceable.



81. Local 4011, Council 962, and the Board have imposed and enforced the unlawful provisions for the collection of union fees from nonmembers in Article 4 in the CBA against Plaintiffs and the class they seek to represent.

82. Thus, as a direct result of the unlawful provisions in Article 4 in the CBA, the Nonmembers:

- (a) are prevented from exercising their rights and privileges as citizens of the United States not to pay union monies in the absence of adequate pre-collection notice and procedural safeguards required by the Constitution;

- (b) are deprived of their civil rights guaranteed to them under the statutes of the United States;

- (c) have suffered monetary and other damages; and

- (d) have suffered irreparable harm, an injury for which there is no adequate remedy at law, due to the violations of their First Amendment rights.

83. Unless preliminarily enjoined by this Court, Defendants and their agents will continue the aforesaid deprivation and abridgement of the First Amendment rights of Plaintiffs and members of the proposed class, thereby causing further irreparable harm, damage and injury for which there is no adequate remedy at law.

**COUNT III**  
(Violations of 42 U.S.C. § 1983 and  
the United States Constitution)

84. The Nonmembers repeat and reallege paragraphs 1 through 83 of this Complaint as if fully set forth herein.

85. Defendants have violated and continue to violate the First and Fourteenth Amendment rights of Plaintiffs and the class they seek to represent by collecting compulsory

fees from them without first providing proper pre-collection notice and procedural safeguards in that the 2014 Notice, insofar as they have:

(a) failed to include financial disclosure for Council 962's and AFSCME's total expenses, and for the breakdown of the Unions' respective total expenses into chargeable and nonchargeable categories;

(b) failed to include independent audit verification for Council 962's and AFSCME's total expenses and those expenses' allocations into chargeable and nonchargeable categories;

(c) failed to identify the independent, third-party who would hold the escrow account while nonmembers' fee challenges were pending, and when nonmembers' fees would be escrowed; and

(d) required nonmembers to disclose their social security number to file a challenge to these Unions' fee calculations.

86. The Board of Education has collected union fees for AFSCME and Council 962 from the Nonmembers from October to mid-December 2014 in the absence of the constitutionally required *Hudson* notice and procedures listed in Paragraph 73, *supra*, and has transmitted such monies to Local 4011 and/or its affiliates, which received the monies. The Board, AFSCME, and Council 962's seizure of union dues and/or fees from the wages of Nonmembers violates the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983 because they failed to provide Nonmembers with the required *Hudson* safeguards.

87. Thus, as a direct result of Defendants' unlawful actions described herein, Plaintiffs and members of the proposed class:



(a) are prevented from exercising their rights and privileges as citizens of the United States not to pay union monies in the absence of receiving all of the pre-collection notice and procedural safeguards required by the Constitution;

(b) are deprived of their civil rights guaranteed to them under the statutes of the United States;

(c) have suffered monetary and other damages; and

(d) have suffered the irreparable harm, damage, and injury for which there is no adequate remedy at law that is inherent in the violation of First Amendment rights.

#### **COUNT IV**

(Violations of 42 U.S.C. § 1983 and  
the United States Constitution)

88. The Nonmembers repeat and reallege paragraphs 1 through 87 of this Complaint as if fully set forth herein.

89. Defendants have violated and are violating the First and Fourteenth Amendment rights under the United States Constitution of Plaintiffs and the class they seek to represent by collecting compulsory fees from them without first providing the proper pre-collection notice and procedural safeguards in that the 2015 Notice:

(a) failed to include financial disclosure for Council 962's and AFSCME's total expenses, and for the breakdown of the Unions' respective total expenses into chargeable and nonchargeable categories;

(b) failed to include independent audit verification for Council 962's and AFSCME's total expenses and those expenses' allocation into chargeable and nonchargeable categories;

(c) failed to identify the independent, third-party holding the escrow account while nonmembers' fee challenges were pending, and when nonmembers' fees would be escrowed;

(d) required nonmembers to disclose their social security number when filing a challenge to these Unions' fee calculations; and

(e) failed to establish procedures for a reasonably prompt decision by an impartial decisionmaker of a nonmember's challenge to the Unions' fee calculations in that there was no:

(1) indication of the selection process for an arbitrator or administrative law judge and the Unions' involvement in such process; and

(2) procedural timeline for nonmembers' challenges to be heard.

90. The Board of Education has collected fees for AFSCME and Council 962 from the Nonmembers in the absence of the constitutionally required *Hudson* procedures, and has transmitted such monies to Local 4011 and/or its affiliates, which received the monies. The Board, AFSCME, and Council 962's seizure of fees from the Nonmembers' wages violates the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983 because these Defendants failed to provide the Nonmembers with the constitutionally required *Hudson* safeguards.

91. Thus, as a direct result of Defendants' unlawful actions described herein, Plaintiffs and members of the proposed class:

(a) are prevented from exercising their rights and privileges as citizens of the United States not to pay union monies in the absence of receiving all of the pre-collection notice and procedural safeguards required by the Constitution;



(b) are deprived of their civil rights guaranteed to them under the statutes of the United States;

(c) have suffered monetary and other damages; and

(d) have suffered the irreparable harm, damage, and injury for which there is no adequate remedy at law that is inherent in the violation of First Amendment rights.

92. Unless preliminarily enjoined by this Court, Defendants and their agents will continue the aforesaid deprivation and abridgement of the First Amendment rights of Plaintiffs and members of the proposed class, thereby causing further irreparable harm, damage, and injury for which there is no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray judgment for themselves and the class they seek to represent as follows:

A. Enter an order, as soon as practical, certifying this case as a class action and appointing Plaintiffs' counsel as class counsel.

B. For issuance of a declaratory judgment, pursuant to 28 U.S.C. § 2201, declaring that:

(1) the CBA's compulsory unionism provision, Article 4, Paragraph 2, impermissibly violates Plaintiffs' First Amendment rights to free speech and association by requiring their payment of any fees to Local 4011 and/or its affiliates, or any union or employee representative, as a condition of public employment;

(2) Article 4, Paragraph 2 in the CBA is null and void on its face and/or as applied to Nonmembers because the notice and procedure requirements set forth in the

CBA violate the rights of Plaintiffs and the proposed class under the First and Fourteenth Amendments to the United States Constitution, in that the CBA:

- a. unlawfully restricts nonmember employees' right to challenge the Unions' fee calculations in a court of competent jurisdiction;
- b. requires nonmember employees to challenge their fee through Council 962's internal union proceedings before pursuing the claim in a state or federal court; and
- c. as to Council 962's internal union proceedings, requires nonmember employees to file their fee challenges by certified or registered mail.

(3) Defendants' policies and procedures, including Council 962's 2014 and 2015 Notices, for the collection of compulsory fees from nonmembers, as applied by Defendants, violate the rights of Plaintiffs and the class they seek to represent under the First and Fourteenth Amendments to the United States Constitution, in that the Nonmembers have been required to pay forced fees to the Unions in the absence of the legally required pre-collection, notice and procedural safeguards of:

- a. financial disclosure of AFSCME's and Council 962's total expenses, and the breakdown of the Unions' respective expenses into chargeable and non-chargeable categories;
- b. independent auditor verification of AFSCME's and Council 962's fee calculations;
- c. the identity of the independent, third-party holding the escrow account for nonmembers' fee challenges; and



d. unburdened challenge filing procedures that do not require disclosure of the challenger's social security number.

(4) In addition to the procedures set forth in subparagraph (3) above, which is incorporated by reference herein, Defendants' policies and procedures and Council 962's 2015 Notice for the collection of compulsory fees from nonmembers, as applied by Defendants, violate the rights of Plaintiffs and the class they seek to represent under the First and Fourteenth Amendments to the United States Constitution, in that the Nonmembers have been and are required to pay compulsory fees to the Unions for the 2015 fee year in the absence of the legally required pre-collection notice and procedural safeguards of a reasonably prompt decision by an impartial decisionmaker, which includes: (i) disclosure of the Unions' involvement in the selection process of the impartial decisionmaker; and (ii) a procedural timeline in which the nonmembers' fee challenges would be heard.

C. For injunctive relief, the Plaintiffs and the class they seek to represent ask this Court to grant:

(1) a permanent injunction against Defendants, and their agents, assistants, successors, employees, attorneys, affiliates, and all other persons acting in concert or cooperation with them or at their direction or under their control (collectively "agents"), prohibiting them from seeking to require non-union employees to pay any monies that support any union;

(2) a temporary restraining order and/or preliminarily and permanent injunction that prohibits the Board of Education, AFSCME, and Council 962, and/or their agents, from enforcing and implementing Article 4, Paragraph 2 of the CBA, which

establishes pre-collection notice and procedures less than those required by the First and Fourteenth Amendments to the United States Constitution, to the extent that the CBA requires nonmember Job 1A employees to pay a compulsory fee:

a. where the nonmember employees' right to challenge the Unions' fee calculations in a court of competent jurisdiction is unlawfully conditionally restricted;

b. where there is a requirement that one of two options for nonmember employees to file their challenges to the Unions' fee calculations is pursuant to internal union proceedings; and

c. where there is a requirement under internal union procedures that Nonmembers file their challenges to the Unions' fee calculations by certified or registered mail.

(3) a permanent injunction that requires AFSCME and Council 962 and/or their agents to provide Plaintiffs and the class they seek to represent with proper pre-collection notice and procedures as set forth in paragraph B.(3), *supra*, for the Unions' 2014 fee year, with a renewed opportunity to challenge the forced fees, or in the alternative, a permanent injunction that requires the Unions and/or their agents to refund Plaintiffs and the proposed class members for all compulsory fees seized from their wages by Defendants Board, AFSCME, and Council 962 from October to mid-December 2014, or for the time frame subject to the 2014 Notice;

(4) a temporary restraining order and/or preliminarily and permanent injunction that prohibits the Board of Education, AFSCME, and Council 962, and their agents from enforcing and implementing any compulsory provision to require nonmember Job 1A employees to pay compulsory fees pursuant to the 2015 Notice in the



absence of constitutionally required pre-collection notice and procedures as set forth in subparagraphs B.(3) and (4), *supra*;

(5) a permanent injunction that requires AFSCME and Council 962 and/or their agents to provide Plaintiffs and the class they seek to represent with proper pre-collection notice and procedures for the Unions' 2015 fee year and a renewed opportunity to challenge the forced fee, or in the alternative, an injunction that requires the Unions to refund Plaintiffs and proposed class members for all compulsory fees seized from their wages by Defendants from late December 2014 to May 2015, and any other fees seized pursuant to the 2015 Notice.

D. Award Plaintiffs and members of the proposed class compensatory damages in the amount of the portion of forced fees unlawfully exacted from them, with interest, and other such amounts as the principles of justice and compensation warrant.

E. For costs, including reasonably attorneys' fees, pursuant to the Civil Rights Attorneys' Fees Award Act of 1976, 42 U.S.C. § 1988, and

F. Such other and further relief as the Court may deem just and proper.

DATED: September 23, 2015

Respectfully submitted,

/s/ Richard L. Masters  
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ATTORNEYS FOR PLAINTIFFS  
AND THE CLASS THEY SEEK TO REPRESENT



### VERIFICATION OF COMPLAINT

Jeannean Cochran, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I

have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21<sup>st</sup> September 2015.

  
JEANNEAN COCHRAN



### VERIFICATION OF COMPLAINT

Paula Barr, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I

have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

  
\_\_\_\_\_  
PAULA BARR

### VERIFICATION OF COMPLAINT

Cherri Beckhart, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which included pay from September to December 2014 and from two paychecks in January 2015. I anticipate that the Unions have used such “fair share” fees for their respective “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities, and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected fees from me for the benefit of the Unions, even though I have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.



Executed on 21<sup>st</sup> September 2015.

  
\_\_\_\_\_  
CHERRY BECKHART

### VERIFICATION OF COMPLAINT

Melinda Diemer, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

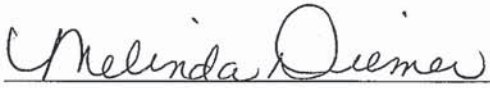
I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I

have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

  
MELINDA DIEMER



### VERIFICATION OF COMPLAINT

Virgie Fietsch, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I

have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

A handwritten signature in cursive script, appearing to read "Virgie Fietsch", written in black ink.

---

VIRGIE FIETSCH

### VERIFICATION OF COMPLAINT

Sharon Maryman, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I



have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

  
SHARON MARYMAN

### VERIFICATION OF COMPLAINT

Melissa Shina, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I

have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

  
\_\_\_\_\_  
MELISSA SHINA



### VERIFICATION OF COMPLAINT

Brenda Stephens, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education ("Board") and Donna M. Hargens ("Hargens") have seized from my wages "fair share" fees for the benefit of the American Federation of State, County and Municipal Employees ("AFSCME"), AFL-CIO and AFSCME Council 962 ("Council 962") from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such "fair share" fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME's and Council 962's "chargeable" collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions' positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected "fair share" fees from me for the benefit of AFSCME and Council 962, even though I

have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

  
BRENDA STEPHENS

### VERIFICATION OF COMPLAINT

Kelli Thomas, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

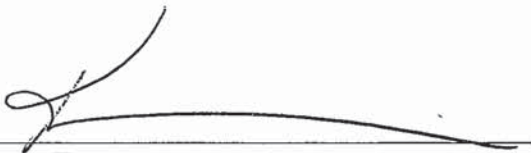
As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I



have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/ September 2015.

  
KELLI THOMAS

### VERIFICATION OF COMPLAINT

Wendy Yates, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from October, which includes pay from September, to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning on or about October 9, 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I

have not received all of the required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

  
WENDY YATES



### VERIFICATION OF COMPLAINT

Yolanda Yancey, pursuant to Section 1746 of the Judicial Code, 28 U.S.C. § 1746, declares as follows:

I am a named Plaintiff in this action and am employed by the Jefferson County Public Schools as a Job 1A classified employee.

I have read the foregoing Class Action Complaint, and state that the statements and allegations contained therein are true and correct of my own personal knowledge and information, except for the matters regarding other Plaintiffs and members of the proposed class, which I believe to be true.

I am competent to testify to the contents therein, which I declare to be true of my own personal knowledge.

As stated more fully in the Complaint, Defendants Jefferson County Board of Education (“Board”) and Donna M. Hargens (“Hargens”) have seized from my wages “fair share” fees for the benefit of the American Federation of State, County and Municipal Employees (“AFSCME”), AFL-CIO and AFSCME Council 962 (“Council 962”) from September to December 2014 and January to May 2015. I anticipate that they will continue to take such “fair share” fees beginning in mid-September 2015 and for every paycheck thereafter, unless stopped by this Court. These fees have been and will continue to be used for AFSCME’s and Council 962’s “chargeable” collective bargaining activities, which are inherently political in nature, and despite my objection to these Unions’ positions, activities, and representation of me. Further, Defendants Board, Hargens, AFSCME, and Council 962 have collected “fair share” fees from me for the benefit of AFSCME and Council 962, even though I have not received all of the

required notice and procedural safeguards regarding my rights under *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 21 September 2015.

  
YOLANDA YANCEY

IS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**1. (a) PLAINTIFFS**

SEE ATTACHED

(b) County of Residence of First Listed Plaintiff Jefferson County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

SEE ATTACHED

**DEFENDANTS**

SEE ATTACHED

County of Residence of First Listed Defendant Jefferson County  
(DI U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

SEE ATTACHED

**II. BASIS OF JURISDICTION (Place an "X" in One Box Only)**

☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)**

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="radio"/> 1	<input type="radio"/> 1	incorporated or Principal Place of Business In This State	<input type="radio"/> 4	<input type="radio"/> 4
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business In Another State	<input type="radio"/> 5	<input type="radio"/> 5
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6

**IV. NATURE OF SUIT (Place an "X" in One Box Only)**

CONTRACT -	TORTS -	FORFEITURE/PENALTY	BANKRUPTCY -	OTHER STATUTES -
<input type="radio"/> 110 Insurance <input type="radio"/> 120 Marine <input type="radio"/> 130 Miller Act <input type="radio"/> 140 Negotiable Instrument <input type="radio"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="radio"/> 151 Medicare Act <input type="radio"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="radio"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="radio"/> 160 Stockholders' Suits <input type="radio"/> 190 Other Contract <input type="radio"/> 195 Contract Product Liability <input type="radio"/> 196 Franchise	<input type="radio"/> 310 Airplane <input type="radio"/> 315 Airplane Product Liability <input type="radio"/> 320 Assault, Libel & Slander <input type="radio"/> 330 Federal Employers' Liability <input type="radio"/> 340 Marine <input type="radio"/> 345 Marine Product Liability <input type="radio"/> 350 Motor Vehicle <input type="radio"/> 355 Motor Vehicle Product Liability <input type="radio"/> 360 Other Personal Injury <input type="radio"/> 362 Personal Injury - Medical Malpractice	<input type="radio"/> 365 Personal Injury - Product Liability <input type="radio"/> 367 Health Care! Pharmaceutical Personal Injury Product Liability <input type="radio"/> 368 Asbestos Personal Injury Product Liability <input type="radio"/> 370 Other Fraud <input type="radio"/> 371 Truth in Lending <input type="radio"/> 380 Other Personal Property Damage <input type="radio"/> 385 Property Damage Product Liability	<input type="radio"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="radio"/> 690 Other <input type="radio"/> 710 Fair Labor Standards Act <input type="radio"/> 720 Labor/Management Relations <input type="radio"/> 740 Railway Labor Act <input type="radio"/> 751 Family and Medical Leave Act <input type="radio"/> 790 Other Labor Litigation <input type="radio"/> 791 Employee Retirement Income Security Act	<input type="radio"/> 422 Appeal 28 USC 158 <input type="radio"/> 423 Withdrawal 28 USC 157 <input type="radio"/> 820 Copyrights <input type="radio"/> 830 Patent <input type="radio"/> 840 Trademark <input type="radio"/> 861 HIA (1395(I)) <input type="radio"/> 862 Black Lung (923) <input type="radio"/> 863 DIWC/DIWW (405(g)) <input type="radio"/> 864 SSID This XVI <input type="radio"/> 865 RSI (405(g)) <input type="radio"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="radio"/> 871 IRS—Third Party 26 USC 7609
<input type="radio"/> 210 Land Condemnation <input type="radio"/> 220 Foreclosure <input type="radio"/> 230 Rent Lease & Ejectment <input type="radio"/> 240 Tons to Land <input type="radio"/> 245 Tort Product Liability <input type="radio"/> 290 All Other Real Property	<input type="radio"/> 440 Other Civil Rights <input type="radio"/> 441 Voting <input type="radio"/> 442 Employment <input type="radio"/> 443 Housing/Accommodations <input type="radio"/> 445 Amer. w/Disabilities - Employment <input type="radio"/> 446 Amer. w/Disabilities - Other <input type="radio"/> 448 Education	<input type="radio"/> 463 Alien Detainee <input type="radio"/> 510 Motions to Vacate Sentence <input type="radio"/> 530 General <input type="radio"/> 535 Death Penalty <input type="radio"/> 540 Mandamus & Other <input type="radio"/> 550 Civil Rights <input type="radio"/> 555 Prison Condition <input type="radio"/> 560 Civil Detainee - Conditions of Confinement	<input type="radio"/> 861 HIA (1395(I)) <input type="radio"/> 862 Black Lung (923) <input type="radio"/> 863 DIWC/DIWW (405(g)) <input type="radio"/> 864 SSID This XVI <input type="radio"/> 865 RSI (405(g)) <input type="radio"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="radio"/> 871 IRS—Third Party 26 USC 7609	<input type="radio"/> 375 False Claims Act <input type="radio"/> 400 State Reapportionment <input type="radio"/> 410 Antitrust <input type="radio"/> 430 Banks and Banking <input type="radio"/> 450 Commerce <input type="radio"/> 460 Deportation <input type="radio"/> 470 Racketeer Influenced and Corrupt Organizations <input type="radio"/> 480 Consumer Credit <input type="radio"/> 490 Cable/Sat TV <input type="radio"/> 850 Securities/Commodities/Exchange <input type="radio"/> 890 Other Statutory Actions <input type="radio"/> 891 Agricultural Acts <input type="radio"/> 893 Environmental Matters <input type="radio"/> 895 Freedom of Information Act <input type="radio"/> 896 Arbitration <input type="radio"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="radio"/> 950 Constitutionality of State Statutes

**V. ORIGIN (Place an "X" in One Box Only)**

☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (sPeCiv) ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC 1983, 1988

Brief description of cause:

Violation of 1st amendment rights by seizure of union fees from non union public employees

**VII. REQUESTED IN COMPLAINT:**

CO CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
325,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

09/22/2015

SIGNATURE OF ATTORNEY OF RECORD

/S/ Richard L Masters

FOR OFFICE USE ONLY

RECEIPT IN

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



ATTACHMENT TO CIVIL COVER SHEET

Plaintiffs

JEANNEAN COCHRAN

PAULA BARR

CHERRI BECKHART

MELINDA DIEMER

VIRGIE FIETSCH

SHARON MARYMAN

MELISSA SHINA

BRENDA STEPHENS

KELLI THOMAS

WENDY YATES

YOLANDA YANCEY, AND THE CLASS THEY SEEK TO REPRESENT,

Plaintiffs' Attorneys

Richard L. Masters, Esq.

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Milton L. Chappell, Esq. *pro hac vice pending*

Sarah E. Hartsfield, Esq., *pro hac vice pending*

c/o National Right to Work Legal

Defense Foundation, Inc.

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Springfield, VA 22151

Tel: (703) 321-8510

Fax: (703) 321-9319

[E-mail: mlc@nrtw.org](mailto:mlc@nrtw.org)

[seh@nrtw.org](mailto:seh@nrtw.org)

**Defendants**

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Board of Education  
3332 Newburg Road  
Louisville, KY 40218  
(502) 485-3566

Donna M. Hargens, Superintendent  
Jefferson County Public Schools  
3332 Newburg Road  
Louisville, KY 40218  
(502) 485-3011

American Federation of State, County and Municipal Employees, AFL-CIO  
1625 L Street  
Washington, DC 20036  
(202) 775-5900

American Federation of State, County and Municipal Employees, Indiana-Kentucky  
Organizing Committee 962  
1424 N. Pennsylvania Street  
Indianapolis, IN 46202  
(317) 632-1432

Jefferson County Association of Educational  
Support Personnel/American Federation of State, County and Municipal Employees  
Local 4013.  
4315 Preston Highway, Suite 101  
Louisville, KY 40213  
(502) 368-8052

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American Federation of State, County and Municipal Employees, AFL-CIO  
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Counsel for AFSCME, AFL-CIO**

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Louisville, KY 40208  
(502) 636-4333  
Counsel for AFSCME Council 962 and  
Jefferson County Association of Educational Support Personnel, AFSCME, Local 4011**



**Exhibit A**

BETWEEN THE  
JEFFERSON COUNTY  
BOARD OF EDUCATION

AND THE  
JEFFERSON COUNTY ASSOCIATION OF EDUCATIONAL SUPPORT PERSONNEL  
AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES ON  
BEHALF OF LOCAL 4011

JCBE-JCAESP/AFSCME AGREEMENT, 2012-2017

Distributed to Employees by:

Jefferson County Association of Educational Support Personnel  
American Federation of State, County and Municipal Employees on Behalf of Local 4011

Published and Paid for by:

Jefferson County Public Schools  
P. O. Box 34020  
3332 Newburg Road  
Louisville, KY 40232-4020

Jefferson County Public Schools  
Equal Opportunity/Affirmative Action Employer

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## ARTICLE 1 - DEFINITIONS

As used in this Agreement the following definitions apply:

1. Employer means the Jefferson County Public Schools District, an independent agency and instrumentality of the Commonwealth of Kentucky.
2. Union means the Jefferson County Association of Educational Support Personnel, affiliated with the American Federation of State, County and Municipal Employees (AFSCME) Council 62 Local 4011.
3. Employee means any person included in the representation unit (as defined by Article 3, Recognition).
4. Promotional opportunity means a position resulting in an increase in compensation.
5. Confidential/Essential Employee means the Superintendent is authorized to determine that employees holding certain jobs are not eligible for representation by the Union because of the nature of their work or the information to which they have access. The employees shall be referred to as confidential essential employees and shall not be included in the bargaining unit.
6. Overstaff means a condition where a Job Family IA employee's position is eliminated at a specific location and the employee is involuntarily placed on the transfer list.
7. Members or Membership means only those employees in the representation unit belonging to the Union.
8. Superintendent/designee means the Superintendent of Schools of Jefferson County, Kentucky or an administrator or supervisor authorized to act on behalf of the Superintendent in the administration of this Agreement.
9. Days means days of the week, excluding Saturday, Sunday, and holidays.
10. Length of service means amount of time in active pay status while assigned to a job classification(s) as an initial probationary or permanent employee, whichever is applicable, from first compensable day following last break in service computed in years; ties to be broken by seniority.
11. Seniority means the total amount of continuous time from the first compensable day as an initial probationary or permanent employee following last break in service including all approved paid and unpaid leave; ties to be broken by the largest sum of the final four (4) digits of the employee's Social Security number.
12. Vacancy means a permanent full-time position in the administrative organization approved by the Board, funded in the budget, and released for staffing which does not have a regular full-time employee of record assigned to it.
13. Red lined means salary will be held at the current level adjusted upward only at the rate of one-half of any cost-of-living raise that might be granted until the schedule matches the employee's salary.

14. Union/Authorized Representative means any Union employee/member the Union leadership appoints or elects.

## ARTICLE 2 - EMPLOYER RIGHTS

Except as limited by the provisions of this Agreement, law, regulations and code, the Employer does hereby have and retain, solely and exclusively, all managerial rights and responsibilities which shall include but not limited to, the right to determine policies, rules, regulations and procedures of the Employer; to establish, amend or modify an overall budget; to establish, change, combine or abolish job classifications or the job content of any classification; to discipline employees (with just cause); to relieve employees from duty for lack of work or other legitimate reasons or lessen their duty; to hire and promote employees; to determine the starting and quitting time and the number of hours and shifts to be worked; to expand, reduce, alter, combine, or cease any job operation or service; to control and regulate the use of machinery, equipment and other property of the Employer, to introduce new and improved research, development and services, and technology; to determine the number and types of employment required and to assign work to such employees in accordance with the operational needs of the school district; and direct the work force. (Unless abridged by this agreement)

## ARTICLE 3 - RECOGNITION

The Union is recognized as official representative of regular, full-time (excluding initial probationary, part-time, temporary, and seasonal and substitute) clerk, secretary, bookkeeper, paraprofessional, and technical employees in Job Family IA, except for those holding positions designated by the Superintendent as confidential/essential.

## ARTICLE 4 - UNION RIGHTS

1. Dues deduction When requested by the Union, a plan shall be developed by which membership dues of those eligible for representation in the Union, the Kentucky Association of Educational Office Professionals, and the National Association of Educational Office Professionals may be payroll deducted and remitted to the Union. Membership dues for the Union will be deducted from each employee's paycheck monthly in sixteen (16) equal payments, from October through May, except for those who notify the Employer expressly and individually in writing during the first ten (10) days after eligibility for representation or during the first ten (10) days following the effective date of this Agreement that such dues are not to be deducted.

Should legislatively the fair share fee be forfeited the following paragraph will apply: The Union is obligated to represent all employees in the representation unit but the Union shall have the right to charge a predetermined fee to an employee who is not a member of the Union and who seeks Union assistance when specific services are rendered to that employee. Such fees-for-service shall comply with applicable state and federal statutes, regulations and court orders and shall be from a predetermined fees-for-service schedule. The employer shall neither collect nor deduct from wages any such fees-for-service.



1 The Union shall save the Employer harmless against any claims, legal or otherwise,  
2 which may arise there from. The Union retains the right to defend such claims.

3  
4 Union membership dues shall not be deducted from the paychecks of employees who  
5 notify the Employer expressly and individually in writing within these ten (10) days that  
6 such dues are not to be deducted. Membership dues shall be transmitted to the union.  
7 The Union shall annually certify in writing the current and proper amount of its  
8 membership dues at least thirty (30) days prior to the initial deduction.

- 9  
10 2. Employees who are included in the collective bargaining unit, but decline membership,  
11 as stated above, shall be required to pay, in lieu of union dues, a fair share fee equal to  
12 the part of the union dues that the union is entitled to be paid under applicable federal  
13 and state law for representing the non-member employees in matters of collective  
14 bargaining, grievance and contract administration. The fair share fee will be deducted  
15 automatically from the wages of each non-member employee for every pay period for  
16 which the non-member is scheduled to work in equal amounts in (16) equal payments  
17 from, from October through May, beginning with the effective date of memorandum of  
18 agreement, for so long as the non-member employee is not a member of the union.  
19 Such monies shall be transmitted to the union.

20  
21 The union shall annually certify in writing the current and proper amount of its  
22 membership dues and fair share fee, at least thirty (30) days prior to the initial deduction.  
23 The union shall provide to the employer, written notice thirty (30) days prior to any fair  
24 share fee deduction, and annually thereafter, an affidavit which states the amount of the  
25 fair share fee (which shall not exceed the amount of the dues uniformly required to be  
26 paid by members of the union) together with an audit by an independent certified public  
27 accountant clearly setting forth the method by which the fair share fee was calculated,  
28 including a list of the major categories of the union's budgeted expenses specifying  
29 which expenses were included and excluded in determining the fair share fee. The  
30 union shall provide to each non-member employee identified to the union by the  
31 employer a notice which shall include a copy of the current affidavit described above and  
32 a statement that the amount of the fair share fee may be challenged by the non-member  
33 employee (1) through the union's internal appeal procedure culminating in arbitration, by  
34 sending a letter to the union by certified or registered mail or hand delivery, (2) by filing a  
35 request for decision with the Louisville Labor-Management Committee, with a copy to  
36 the union, or (3) after completing either of the aforementioned then the employee may  
37 file a complaint against the union in a court of competent jurisdiction. The notice shall  
38 state the manner in which a non-member employee may obtain a copy of the union's  
39 internal appeal procedure or file a request for decision with the Louisville Labor-  
40 Management Committee.

41  
42 All challenges must be in writing and must be mailed, delivered or filed not later than  
43 sixty (60) days after receipt by the non-member employee of the notice. Upon receipt of  
44 a challenge, the union shall deposit into an interest-bearing escrow account, separate  
45 from all other union funds, the amount of all fair share fee payments received on behalf  
46 of the challenging non-member employee that is placed in issue by the challenge. The  
47 escrow agreement for the escrow account shall provide that the escrowed funds shall be  
48 released from the escrow account only in compliance with the terms of an ultimate  
49 arbitration award, Louisville Labor-Management Committee decision or final judgment of  
50 a court, including any appeals, or by the terms of a mutually agreeable settlement  
51 between the union and the challenging non-member employee.

The final amount of the fair share fee as determined by the arbitration award, Louisville Labor-Management Committee decision or judgment of a court shall reflect only those expenses affirmatively related to representing the non-member employee in matters of collective bargaining, grievance and contract administration. The union shall have the burden of proving such affirmative relation. The union shall provide to the arbitrator, Louisville Labor-Management Committee, or court, as applicable, all financial and other records of the union deemed relevant by the adjudicating body.

3. The union shall indemnify and save harmless the Employer and its members, officers, employees and agents against any liability that may arise out of or by reason of any action taken by the Employer consistent with the foregoing provisions relating to the fair share fee, including reasonable attorneys fees. In the event the Employer should be held liable or responsible for repayment of any fair share fee amounts paid to the union pursuant to the Agreement, the union shall reimburse such monies to the Employer.
4. Courier Service The Union shall have the right to use the district courier service to communicate with employees covered by this Agreement only as permitted by U.S. Postal regulations. Communications approved for distribution through the courier service shall be specifically addressed to an individual and shall not include items of a personal nature. The Union shall save the Employer harmless against claims, legal or otherwise, which relate to the use of the courier service. Two (2) copies of material(s) sent through the courier service, distributed on the Employer's property, or posted shall be provided in advance to the Superintendent/designee, one (1) copy shall be provided in advance to each chief building administrator where the material is distributed.
5. Bulletin Board The Union shall have the right to post notices of its activities and matters of concern to employees represented by the Union in a conspicuous place designated by the chief building administrator at each work location. A copy of any posted material shall be provided to the Superintendent/designee and the chief building administrator before it is posted.
6. Political Material Material endorsing or opposing a political position or candidate for public office, material encouraging employees to violate any law, regulation, policy, or administrative rule, or material which has as its effect the interfering with employees' rights under law shall not be posted, distributed through the courier service or distributed in any manner on the Employer's property by the Union or for its benefit.

The Employer agrees to deduct from the wages of any employee who is a member of the Union a P.E.O.P.L.E. deduction as provided for in a written authorization. Such authorization must be executed by the employee and may be revoked by the employee at any time by giving written notice to the employer. The employer agrees to remit any deductions made pursuant to the provision promptly to the Union together with an itemized statement showing the names of each employee from whose pay such deductions have been made and the amount deducted during the period covered by remittance.

7. Commercial Advertising and Solicitation Material containing advertising or solicitation of commercial materials, products or services (including anything for sale by an employee for the employee's financial gain which is a product of their own talent or skill as well as the product of an on-going commercial interest) shall not be posted, distributed through the courier service or distributed in any manner on the Employer's property by the Union

1 or for its benefit.

- 2
- 3 8. Meeting Space The Union may use facilities designated by the Employer for meetings
- 4 before or after the employees' normal work hours for which the Union shall pay the
- 5 Employer's regular fees for special custodial services or damage and for which the
- 6 Union shall save the Employer harmless against any claims, legal or otherwise, which
- 7 may arise there from.
- 8
- 9 9. Union Business The Union president and/or one (1) designee and one (1) employee at
- 10 each work location designated by the president shall have the right exclusively to
- 11 transact Union business at work locations to which the employees are regularly assigned
- 12 at such times before and after employee duty hours and during scheduled meal and rest
- 13 breaks as will not interfere with or disrupt operations provided the Union
- 14 president/designee has previously registered with the chief building administrator and
- 15 immediate supervisor where applicable. The Union shall provide the
- 16 Superintendent/designee with a list of the names and work locations of all persons
- 17 authorized to transact Union business at work locations. The designee/s shall be either
- 18 a union representative/s and/or the designated "staff representative/s".
- 19
- 20 10. Union Leave The Union shall be entitled to designate individual/s employees to be
- 21 granted unpaid leave in an aggregate amount not exceeding 150 days per year to be
- 22 taken in full days for the conduct of necessary Union business, such designation to be
- 23 made in writing to the Superintendent/designee normally at least 5 days in advance of
- 24 the leave usage. The Union will reimburse the Employer for the cost of any substitute
- 25 employee for these leave days, should one be provided. The parties agree that Union
- 26 leave will not be granted during the first five (5) days just before the school term, the first
- 27 five (5) days of the school term or the last ten (10) days of the school term, or in the
- 28 case of school-based employees, during standardized testing such as state/federal
- 29 tests.
- 30
- 31 11. Employer-Union Relations Meetings The Superintendent/designee(s) shall meet bi-
- 32 monthly (TA) 6/5/12 with not more than five (5) representatives of the Union to discuss
- 33 administration of this Agreement and other matters of mutual concern.
- 34
- 35 12. Change Meetings When the Employer contemplates any change(s) in wage rates,
- 36 hours, compensable benefits, or procedures specifically included in this Agreement
- 37 which have a substantial general economic impact upon the employees the Union shall
- 38 be notified in advance of and, to the extent practicable, participate in discussion prior to
- 39 such change(s).
- 40
- 41 13. Board Agenda The Superintendent/designee shall provide the Union a copy of the
- 42 official agenda in advance of regular Board meetings except for those items privileged
- 43 by law.
- 44
- 45 14. Technology changes The Employer shall inform the Union in advance of the introduction
- 46 of automation or equipment which will likely result in, (a) substantial reduction or
- 47 displacement of the total number of employees, (b) substantial change in the job to
- 48 which employees are assigned, or (c) change salary classification of the jobs. The union
- 49 retains the right to grieve such change.
- 50
- 51



- 1 15. Information Exchange The Employer and the Union shall make available to each other  
2 upon written specific requests any statistics and reports routinely compiled which are not  
3 confidential and which are relevant to this Agreement or necessary for its proper  
4 administration.  
5
- 6 16. The Union shall be entitled to nominate members to serve on committees recommending  
7 voluntary group insurance coverage's.  
8
- 9 17. The Union shall be entitled to request professional leave in order that members who are  
10 state and/or national officers may attend state and national conferences. The Union shall  
11 be entitled to request professional leave in order that members may attend state, national  
12 and local conferences.  
13
- 14 18. Modified job descriptions will be provided to the employees by the supervisor ten (10)  
15 days of the date of change.  
16
- 17 19. The Union building representative shall upon request be given time prior to or after each  
18 faculty and/or staff meeting for brief announcements. The building communication  
19 system shall be made available according to the established procedures of the facility for  
20 use by a Union building representative to make brief announcements concerning  
21 meetings. The Union shall be provided upon request building rosters showing the  
22 names, home addresses, and assignments of all employees.  
23
- 24 20. Employee Information Data The Employer shall provide the Union on a monthly basis  
25 the following information by means of computer disk:  
26
  - 27 a) Employee's name (last, first)
  - 28 b) Dues deduction status
  - 29 c) Employee's ID number
  - 30 d) Employee's mailing address (including zip code)
  - 31 e) Employee's work location (where the checks are received)
  - 32 f) Employee's seniority date
  - 33 g) Current valid certificates
  - 34 h) Salary schedule placement (grade, step, hourly wage, yearly salary, days  
35 worked)
  - 36 i) Employee's phone number  
37
- 38 21. All copies of transfer requests, reassignment requests, and voluntary demotion requests  
39 submitted by employees will be provided to the Union. All copies of waivers of rejection  
40 of Union membership will be provided to the Union.  
41
- 42 22. The Union shall be allowed to address newly hired employees at the conclusion of  
43 orientation meetings advising them of their union rights and benefits and to solicit their  
44 membership in the Union under the terms of the Agreement.  
45
- 46 23. The District agrees to permit the Union access to the e-mail system and the same rules  
47 found in the labor agreement that govern use of the school system's courier service by  
48 the Union shall apply. In addition, The Union agrees to abide by the District's "JCPS Net  
49 Employee Acceptable Use Policy".  
50  
51

## ARTICLE 5 - EMPLOYEE RIGHTS

1. The contents of this Agreement shall be applied to all employees eligible for representation by the Union without regard to race, color, sex, age, religion, disability, veteran status, national origin, marital or parental status, political beliefs, sexual orientation or terms and conditions of membership in the Union.
2. No rights of employees under the law shall be abridged by the Employer or the Union.
3. No employee shall be appointed, promoted, demoted, dismissed or in any way favored or discriminated against with respect to employment because of political or religious opinions or affiliations, ethnic origin, race, color, sex, sexual orientation, age, religion, disability, veteran status, national origin, marital or parental status, political beliefs or terms and conditions of membership in the Union.
4. No adverse action of any kind shall be taken by the Employer or any of its agents against any employee for reason of participation in Union business/activities including, but not limited to participation in negotiations, the administration of the Agreement, the performance of duties or the exercise of the rights of citizenship. No adverse action of any kind shall be taken by the Union or any of its members or agents against the Employer, the Superintendent or other administrators for reason of participation in negotiations, the administration of this Agreement, the performance of duties, or the exercise of the rights of citizenship.
5. Neither the Union/designee or the employee/designee nor the Employer shall tape-record or intentionally eavesdrop on a meeting without the prior knowledge of the other.
6. The private life of an employee is not within the appropriate concern or attention of the Employer except when it adversely affects the employee's professional responsibility.
7. An employee shall be afforded an opportunity to have a representative of the Union present in any conference which may lead to disciplinary action or reprimand.

## ARTICLE 6 - HOURS AND OVERTIME

1. A non-compensated duty-free meal break of at least twenty (20) minutes shall be provided for employees assigned to work locations with lunchrooms. A non-compensated duty-free meal break of at least forty-five (45) minutes shall be provided for employees assigned to work locations without lunchrooms. Such break shall be assigned by the appropriate supervisor.
2. A ten (10) minute paid rest break shall be provided to employees for each consecutive four (4) hour period of service.
3. Employees who report to work at the beginning of their regularly scheduled duty time when the Employer has not attempted to notify them not to report and who are subsequently relieved of duty for that day shall be paid for a minimum of two (2) hours.

4. Employees required to perform work in excess of their regularly scheduled number of hours short of overtime shall be compensated for the extra hours at their scheduled straight-time hourly wage rate including incentive increments and shift differentials.
5. Authorized and approved work performed in excess of forty (40) hours credited to the employees per workweek shall be considered as overtime and shall be compensated at the rate of one and one half (1 1/2) times the employee's scheduled straight-time hourly wage rate including incentive increments and shift differentials.
6. Time worked for purposes of overtime compensation shall include approved paid leave days including paid holidays.
7. Time worked for purposes of overtime compensation shall not include meal breaks, docked time, unpaid leave time, or other approved unpaid absences from duty.
8. Overtime must be scheduled and approved by the principal or appropriate administrative unit director.

#### ARTICLE 7 - WORKING CONDITIONS

1. Parking facilities shall be provided for the employees.
2. Employees who are required to use their personal automobile in transportation from their regularly assigned work location to another location in the performance of their duties shall be paid mileage at the regular rates and according to the rules established by the Employer.
3. Work schedules, including beginning and ending of the workday and scheduled normal meal and rest breaks as assigned by the principal or appropriate administrative unit director, shall be posted or provided to the employees. An effort will be made to equitably redistribute the workload when absences occur.
4. Employees or representatives shall be entitled to provide advice and make recommendations with regard to equipment and furniture of which the employees are the primary users.
5. Both Parties endorse the shared decision-making process and agree that employees shall be involved in decisions which affect their working conditions at their regularly assigned work location.

#### ARTICLE 8 - SAFETY

1. The Employer shall be responsible for providing and maintaining a safe place of employment while providing a hostile and harassment free workplace.
2. Each employee shall cooperate and encourage others to work in a safe manner and to comply with all applicable local, state and federal policies, rules, regulations and orders.



3. Employees shall be responsible for reporting observed unsafe or hazardous practices or conditions to the immediate supervisor or appropriate administrator who shall contact duly qualified personnel who will make a timely inspection and take steps to remedy the condition.
4. The Employer shall investigate reports by employees of unsafe or hazardous practices or conditions made on the appropriate safety form and shall provide a written response to such reports.
5. Employees shall not be required to work under conditions determined by qualified administrative personnel to be detrimental to their health, safety and well-being. Employees retain the right to grieve an unsafe practice.
6. Employees shall use and maintain the safety equipment and protective devices furnished or required by the Employer necessary to meet recognized safety standards.
7. Employees, individually and through the Union, shall be entitled to present advice and make recommendations to the Employer with respect to improving safety awareness and practices associated with their work assignments.
8. The Employer/designee will meet upon request with employees required to carry monies on their person off JCPS property to address the safety concerns of the employee. The employee may request to have a Union representative at this meeting. The Employer will provide a reserved parking space when it is determined by the immediate supervisor to be appropriate.
9. Employees shall not be required to transport parents. Employees will also not be required to transport students unless it is part of the job description.

#### ARTICLE 9 - EXTRA EMPLOYMENT

1. Employees who request it on the appropriate form within the established timelines shall be given consideration for work as temporary employees in seasonal and voluntary assignments which occur beyond their regularly scheduled work year/workday and which are directly and similarly related to their regular jobs and for which the Employer deems them best qualified. Employees who are chosen for such assignments shall be selected after laid-off personnel have been first considered and before applicants who are not currently employed by the Employer are considered.
2. Those chosen as temporary employees for extra employment assignments shall be paid from the salary schedule currently in effect for temporary employees as of the time the services are rendered.
3. Employees in this representation unit working as temporary employees shall be covered by Articles 1, 2, 3, 5, 7, 8, 12, 15, and 21 exclusively.

## ARTICLE 10 – COMPENSATION

Section A Wages/Wage Rates

1. Paydays shall be on a biweekly basis normally every other Friday except when they fall on a paid holiday, in which case they shall be the preceding workday.
2. The Union shall be entitled to submit and discuss with the Employer information, opinions, and proposals on wage rates which shall not be reduced except as a result of balancing the budget.
3. Employees holding degrees from accredited colleges/universities when the degree is not part of the minimum job requirements and employees holding a Professional Standards Program Certificate awarded by the National Association of Educational Office Professionals shall receive payment to be made in July of each year according to the following schedule. The employee must submit an official transcript/certificate to the Personnel Department prior to the annual payment to be eligible. The employee must be in active status in July and have worked at least 140 days during the year.

Associate's Degree	\$ 50.00
Bachelor's Degree	\$100.00
Master's Degree	\$150.00

4. Direct deposit to one bank will be mandatory for all employees. The credit union will remain as a payroll deduction.

Step increases will be applied as follows provided, effective July 1, 1992, the employee has received a satisfactory annual summative job performance evaluation. Effective July 1, 1987, costs for step increases will be provided as follows: One (1) step for those accumulating at least 1 year credited successful experience<sup>1</sup> with the school system since July 1, 1985. This step/experience schedule will be in effect thereafter until changed.

Career incentive increments for credited experience as recognized by the Jefferson County Public Schools:

	2012-2017 Per hour
1. After 13 years	\$.20
2. After 18 years	\$.31
3. After 23 years	\$.43
4. After 25 years	\$.56

Shift Differentials:	Second	\$.26
	Third	\$.38

#### Section B Insurance and Retirement

1. Health and hospitalization insurance on single premium basis or same premium dollar amount for Health Maintenance Organization - when full premium paid by State
2. \$20,000 term life insurance - when full premium paid by State
3. Term life insurance equal to one (1) times annualized earnings with \$10,000 minimum computed and \$50,000 maximum from appropriate placement on the Job Family IA Salary Schedule - full premium paid by Employer
4. Workers compensation - full premium paid by Employer
5. Long-term disability insurance - full premium paid by Employer
6. Unemployment compensation - full premium paid by Employer
7. Liability insurance - full premium paid by Employer
8. Voluntary Employee Group Insurance Program - full premium paid by employee through payroll deduction (for approved coverage's recommended by Insurance Advisory Committee)
9. Social Security - Employer Share
10. County Employees Retirement System (CERS) - Employer Share

<sup>1</sup> Credited successful experience means a minimum of 140 days of employment (180 days for 260 day employees).

1    Section C TB Tests

2  
3    Required TB tests shall be provided without cost to the employee when they are obtained  
4    through the services designated by the Employer.

5  
6    Section D Payroll Deductions

- 7  
8    1. Charitable campaigns approved by the Employer  
9  
10    2. Approval Tax-Deferred Annuities  
11  
12    3. Credit Union  
13  
14

15    Section E Early Retirement Benefit

16  
17    Upon retirement from the Jefferson County Public School District, an employee shall receive  
18    thirty (30) percent of the employee's unused accumulated sick leave as a cash payment (less  
19    appropriate deductions) up to a maximum equal to the employee's accumulated sick leave on  
20    the thirtieth (30th) year of credited service in the employee's retirement system. The cash  
21    payment shall be calculated by using the employee's last year of service daily rate.

22  
23    Should an employee's balance of unused sick leave fall below the number reached at the  
24    thirtieth year of service, it is understood that the employee can continue to accrue sick leave  
25    and will be paid up to a maximum of that reached in the thirtieth year.  
26  
27

28                                    ARTICLE 11 - LEAVES OF ABSENCE

29  
30    Section A Sick Leave

- 31  
32    1. Sick leave with pay shall be granted if the employee presents a personal affidavit or a  
33    certificate of a reputable physician stating that the employee or a member of the  
34    employee's "immediate family"<sup>3</sup> was ill on the day or days absent and providing the  
35    employee has not exhausted all of the current and accumulated sick leave credit.  
36  
37    2. Employees shall earn one (1) day sick leave per month or major portion thereof credited  
38    on the basis of the number of months of employment not to exceed twelve (12) days  
39    according to state statutes. The unused portion of the sick leave allowance may  
40    accumulate year-to-year without limitation.  
41  
42    3. When an employee becomes ill on the job, the employee may choose to take sick leave  
43    or to be docked for the time not worked. Disciplinary action shall not be taken against the  
44    employee in these circumstances unless determined to be abusive. Each incident shall  
45    count as a separate occurrence.  
46  
47    4. Sick leave may be taken in whole days only, except that a non-260 day employee may  
48    take one-half (1/2) day sick leave not more than four (4) times and 260 day employee  
49    may take six (6) within a school year in which case an attending physician's statement

<sup>3</sup> "Immediate family" means the employee's spouse, children, including stepchildren, parents and spouse's parents without regard to the location of the residence of said relative.



1 may be required.

- 2
- 3 5. If an employee uses all accumulated sick leave and is still unable to return to assigned
- 4 duties, prior to its expiration the employee may apply for and be placed on unpaid
- 5 medical leave of absence at which time it becomes the responsibility of the employee to
- 6 assume the payment of all insurance premiums not provided for in the Family and
- 7 Medical Leave Act, if eligible.
- 8
- 9 6. Unused sick leave will not be paid upon layoff, resignation from employment, or
- 10 discharge of employees.
- 11
- 12 7. A physician's written verification of illness may be required after the third occurrence<sup>4</sup> of
- 13 absence within a work year. Excessive use of sick leave without a physician's statement
- 14 shall be considered cause for disciplinary action and failure to provide medical
- 15 documentation may result in denial of sick leave.
- 16
- 17 8. When an employee is to be absent from work, the principal or administrative unit
- 18 director/designee must be notified prior to that absence. An employee shall not be
- 19 required to call each day of a prolonged absence provided the employee has informed
- 20 the administrator during the initial notification of the specific days of anticipated absence.
- 21 Failure to provide timely notice of any absence may result in a denial of sick leave.
- 22
- 23 9. A physician's written verification of illness from an attending physician shall be submitted
- 24 for each absence of three (3) or more consecutive days.
- 25
- 26 10. A sick leave bank shall be established into which employees may voluntarily contribute
- 27 one (1) day from their accumulated sick leave. Only voluntary contributors shall qualify
- 28 for use of leave in the bank according to standards consistent with those applying to use
- 29 regular sick leave. A committee composed of employees selected by the Union shall be
- 30 responsible for approving use of sick leave in the bank by employees who have
- 31 exhausted their leave.
- 32

### 33 Section B Medical Leave

- 34
- 35 1. When an employee has been advised by a physician or otherwise knows of an
- 36 interruption in ability to work because of known or anticipated medical reasons, the
- 37 employee shall notify the Department of Personnel Services and the supervisor and upon
- 38 request be granted an unpaid medical leave of absence. Such notice shall be in writing
- 39 and accompanied by an attending physician's statement indicating the anticipated date of
- 40 interruption in ability to work, whether the employee may resume the assignment and the
- 41 anticipated date of return. The employee shall not continue to work past the date
- 42 indicated in the attending physician's statement.
- 43
- 44 2. Medical leave of absence may be granted for a period of one (1) year or less and
- 45 renewed for one (1) additional year. At the end of the second year, if the employee is
- 46 unable to return to work, the employment shall be terminated.
- 47
- 48 3. A position shall be kept available for the employee to resume duties within the job
- 49 classification following return from medical leave provided:
- 50

---

<sup>4</sup> Occurrence means a single event or episode of illness (one to many consecutive days.)

- a. such position has not been eliminated during the employee's absence for any valid reason,
- b. the employee's planned absence does not exceed sixty (60) days,
- c. the employee would not have been laid off had leave not been taken, and
- d. the employee is medically able to fulfill the duties of the position.

After 60 days the employee will be placed on a list for assignment to open positions within the job classification when they become available.

4. Time for which an employee qualifies for workers compensation payments while on medical leave directly resulting from accidents sustained in the course of fulfilling job responsibilities shall count as service time for purposes of salary step placement when combined with regularly paid days. A maximum of one (1) step shall be allowed for those on workers compensation effective from July 1, 1982.
5. Employees who qualify for and are awarded workers compensation payments shall be placed on medical leave with unused sick leave coordinated with the workers compensation payments so as to sustain the level at a total of 100% regular wages.

### Section C Emergency Leave

Each employee shall be credited with two (2) days of paid emergency leave per year which will not accumulate from year-to-year. Emergency leave shall be granted in units of full days. Proof of nature of emergency may be required.

Reasons for granting emergency leave with pay shall be:

1. Death or funeral of relative by blood or marriage (specify relationship), and
2. Emergency situations resulting from natural disasters; i.e., tornado, flood (specify exact reason.)

### Section D Personal Leave

Each employee shall be credited with three (3) days personal leave per year which may be used at the employee's discretion except that personal leave may not be taken during the first five (5) days just before the school term, the first five (5) days of the school term, during one two-week state/federal testing cycle per school year (determined by the employee's work location), the day before and after days schools are closed for holidays and Spring break except under extenuating circumstances, or on the last five (5) days of the school term. The following procedures are to be used in order to apply for and use personal leave:

1. The employee must make the request by noon on the previous work day on the form provided for that purpose,
2. The request must be approved by the employee's immediate supervisor or appropriate administrator on the basis that the employee's absence will not interrupt or impede the work program, and

Permission will not be unreasonably withheld discussion. When more than one employee requests personal leave for the same date, the most senior employee will receive approval and then rotate for future requests.

1 Unused personal leave shall be carried forward to accumulate as sick leave.

2  
3 Section E Child Rearing/Adoption/Dependent<sup>5</sup> Convalescent Leave

- 4
- 5 1. An employee presenting the required evidence shall upon written request to the  
6 Department of Personnel Services and the supervisor be granted an unpaid leave of  
7 absence necessary to meet child adoption requirements and for the purpose of rearing  
8 the employee's pre-school child(ren) or other dependent child, parent or spouse who is  
9 unable to care for self in which case a physician's statement may be required.
  - 10
  - 11 2. A single child rearing/adoption/dependent convalescent leave shall be granted for a  
12 period of no less than forty-five (45) days and no more than two (2) consecutive work  
13 years or major portions thereof upon written request to Personnel Services, except that  
14 such leave may be taken for less than forty-five (45) days if the employee has exhausted  
15 all sick leave and the need is directly related to an illness of the child/dependent.
  - 16
  - 17 3. The Employer shall keep a position available for the employee to resume duties within  
18 the job classification following return from the leave provided:
  - 19
  - 20 a. such position has not been eliminated during the employee's absence for any valid  
21 reason,
  - 22 b. the employee's planned absence does not exceed sixty 60 days, and
  - 23 c. the employee would not have been laid off if leave had not been taken.
  - 24

25 After 60 days the employee will be placed on a list for assignment to open positions within the  
26 job classification when they become available.

27  
28 Section F Jury Duty

29  
30 An employee who serves on a jury in any duly constituted local, state or federal court shall be  
31 granted paid leave less any compensation received as jury pay, for the period of actual jury  
32 service.

33  
34 Employees claiming pay for jury duty leave shall comply with the following procedures:

- 35
- 36 1. A copy of the jury subpoena must be provided to the employee's immediate supervisor  
37 or appropriate administrator promptly upon receipt of such subpoena involving jury duty  
38 service.
  - 39
  - 40 2. If assigned to jury duty, the Verification of Jury Duty Form (available from the payroll  
41 office) must be completed each pay period and forwarded with the Payroll Exception  
42 Card to the payroll office.
  - 43
  - 44 3. A money order or personal check (payable to the Treasurer, Jefferson County Board of  
45 Education) for the amount of compensation received for jury duty excluding any  
46 expenses reimbursed to the employee by the court such as travel and parking shall be  
47 delivered to the principal or immediate supervisor for transmittal to the payroll office.
  - 48
  - 49

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<sup>5</sup> "Dependent means the employee's spouse, children, including stepchildren, parents and spouse's parents without regard to the location of the residence of said relative.

Section G Court Appearance Leave

An employee who is summoned to a local, state, or federal court for reasons directly connected with the employee's employment shall be granted paid leave after properly presenting the approved form certifying the court appearance, except when the employee is a plaintiff or witness against the Employer or its agents, or when the employee is a plaintiff in cases without Employer sanction.

Section H Military Leave

Any employee who enters active duty shall be granted an unpaid leave for a period not to exceed the initial period of service. Any employee on military leave and within ninety (90) days after the employee's separation from military service shall upon written application be restored to a position in the employment of the Employer, provided the employee shall furnish proof of discharge or separation from service under honorable conditions and be found by a physician selected by the Employer to be in a satisfactory state of health for the performance of duties. Upon return the employee shall be placed on the salary schedule at the level which would have been achieved had the employee remained actively employed in the system during the period of absence.

Section I Vacation Leave

1. Twelve-month/260-day employees shall be granted vacation leave according to the Employer's vacation policy and procedure. Such employees shall earn vacation leave based on length of service in the district computed in years as determined by the employee's seniority date plus a maximum of two (2) years credit for military service.
2. Vacation leave shall be credited monthly with accumulation limited to no more than two (2) times earned annual rate as follows:

<u>Years of Service</u>	<u>Days Earned Per Year</u>
0 to 1	10
2 thru 10	15
11 and over	20

3. Eligible employees must have been in active pay status more than half of the workdays in a month to qualify for crediting vacation leave.
4. Employees will be charged with vacation leave only on days upon which they would otherwise work and receive pay.
5. Vacation leave shall be taken in full days.
6. Immediate supervisors, principals or administrative unit directors shall see that employees have opportunities to use vacation leave days and not forfeit them. Vacation leave shall be scheduled by the principals or administrative unit directors in accordance with operating requirements and, insofar as practicable, with the requests of employees.
7. Employees shall request vacation leave on the appropriate form as far in advance as practicable and at least ten (10) working days prior to the requested leave days. This provision may be waived by the supervisor under extenuating circumstances.



8. Upon separation/termination of employment, cash payment shall be made for accrued vacation at the employee's scheduled wage rate prior to the date of change.
9. Vacation days will not be granted during one two-week state/federal testing cycle per school year (determined by the employee's work location)

#### Section J Holiday Leave

Twelve-month/260-day employees shall be granted nine (9) paid holiday leave days and less than twelve-month employees shall be granted four (4) paid holiday leave days according to the Employer's policy and procedure.

#### Section K Political Activity Leave

1. Upon written request an unpaid leave of absence may be granted to an employee for not less than thirty (30) days or more than two (2) work years or major portions thereof for the purpose of campaigning for or serving in public office once the employee becomes a candidate for such office.
2. A position shall be kept available for the employee to resume duties within the job classification following return from leave provided:
  - a. the employee had asked that a position be kept available at the time the leave was requested,
  - b. such position has not been eliminated during the employee's absence for a valid reason,
  - c. the employee's planned absence does not exceed ninety (90) days, and
  - d. the employee would not have been laid off had leave not been taken.
 After ninety (90) days the employee will be placed on a list for assignment to open positions within the job classification when they become available.

#### Section L Education/Training Leave

Upon timely written request an unpaid leave of absence for not less than forty-five (45) days or more than two (2) years may be granted to an employee for purposes of attending an educational training program approved by the Employer and upon request and proof of need, may be renewed for an additional two (2) years. Upon return, evidence shall be submitted that the leave was used for stated purpose.

#### Section M Length of Consecutive Leaves of Absence

Child Rearing/Adoption/Dependent Convalescent Leave may be denied when the granting of such leave would result in absence from duty for a period longer than two (2) consecutive work years or major portions thereof without at least one (1) intervening year of active service as an employee except as otherwise provided under Family and Medical Leave Act, if eligible.

Political Activity Leave may be denied when the granting of such leave would result in absence from duty for a period longer than two (2) consecutive work years or major portions thereof without at least one (1) intervening year of active service as an employee.

1    Section N Notarizing Leave Affidavits

2  
3    Notary services shall be provided without charge to employees required to submit personal  
4    affidavits for leaves.

5  
6    Section O Resumption of Benefits Following Leave

7  
8    Unused accumulated sick leave shall be restored to employees resuming service following  
9    approved leave. Employees shall be responsible for making arrangements to continue  
10   insurance benefits when they would otherwise be interrupted by the approved leave. The  
11   Employer will provide assistance and information with the ultimate responsibility for all notices  
12   remaining with the employee.

13  
14  
15                                    ARTICLE 12 - ASSISTANCE IN ASSAULT/INJURY<sup>6</sup>

16  
17   The Employer shall provide assistance and support to an employee in case of alleged  
18   assault/injury while the employee is fulfilling assigned duties when such assault arises out of  
19   and directly results from employment responsibilities whether the assault/injury takes place on  
20   or off the Employer's property.

21  
22   Section A General Assistance

- 23  
24   1.   The immediate supervisor shall, on the form provided, report any case of alleged  
25   assault/injury on an employee to the appropriate administrator who shall acknowledge  
26   receipt of such report.
- 27  
28   2.   The administrator shall notify the employee of readiness to assist as follows:
- 29      a. Obtain from police and/or from the immediate supervisor and others relevant
  - 30      information concerning the alleged assault/injury and offenders;
  - 31      and
  - 32      b. Act in other appropriate ways as liaison between the employee, the police, and the
  - 33      courts.

34  
35   Section B Legal Counsel

36  
37   Legal advice shall be offered in any criminal action taken by the employee in connection  
38   with the alleged assault/injury and assistance in court appearances may be provided  
39   when requested by the employee and sanctioned by the Employer.

40  
41   Section C Court Appearance

42  
43   Time required for a summoned appearance in any criminal aspect of a legal proceeding  
44   connected with the alleged assault/injury on an employee sustained in the course of fulfilling  
45   employment responsibilities shall be granted as leave and shall not be deducted from sick or  
46   emergency leave days when the employee has promptly provided a copy of the summons,  
47   complaint, or other legal paper to the immediate supervisor.

48  
49  

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<sup>6</sup> As defined in criminal laws of Kentucky

## Section D Compensation

There shall be no loss of wages resulting from an assault/injury for a period up to and including one hundred eighty-five (185) days subsequent to the first day of absence related to the assault/injury. The first one hundred eighty-five (185) days of absence will not be deducted from sick leave. For periods longer than one hundred eighty-five (185) days the reimbursement for lost wages shall be limited to benefit programs such as workers compensation. Employees shall be reimbursed for the costs of medical, surgical, hospital or rehabilitative services exceeding the amount of any insurance reimbursement to which the employee is entitled under coverage provided by the Employer and/or State for personal injury incurred as the result of an assault sustained in the course of employment.

## Section E Employer Approved Physician

If there is a question about the ability of the employee to perform duties, the employee may be required to select a physician for examination from a panel of qualified physicians approved by the Employer. All consulting and examination fees resulting from these examinations shall be paid by the Employer including any lost time spent during the physician's examination.

## ARTICLE 13 - EMPLOYER PROVIDED TRAINING

1. The Employer shall establish a training committee, whose members shall include Union nominated/appointed employees, to offer advice, suggestions, and opinions during the planning of employee training opportunities.
2. Employees shall be compensated for required training.
3. Every reasonable effort will be made within the Employer's resources to provide training opportunities for employees on a voluntary basis to strengthen their capabilities and skills fulfilling their assigned duties and in qualifying for other assignments.

## ARTICLE 14 - EVALUATION

1. The performance of employees shall normally be evaluated in writing at least annually for employees with four (4) years of experience or less. Employees with five (5) years or more will be evaluated at least every three (3) years provided all ratings are satisfactory or above based on performance expectations for holding the job.
2. The evaluation shall be based only upon information gained over a period of time through direct observation, from personal knowledge, or from any source which is demonstrable as fact.
3. All observation for evaluation of work performance shall be conducted in an open and non-secretive manner.
4. The evaluator shall cite strengths in performance and identify weaknesses to be corrected.
5. The evaluator shall not use any information of a derogatory nature in the evaluation of an

employee unless the employee is: (a) provided the information within fifteen (15) workdays of its receipt by the Employer; and (b) provided the opportunity to submit a written response.

6. A copy of the employee's performance evaluation shall be made available to the employee at the time of evaluation and shall be reviewed with the employee by the appropriate evaluating supervisor prior to being submitted to the Personnel Department.
7. The employee being evaluated shall have the right to review the evaluation and file a statement for attachment to it within ten (10) days by providing a copy of the statement to the evaluator.
8. The employee shall sign all evaluations which indicates only that the employee has seen and received a copy.
9. Any review of the evaluation forms shall involve employees selected by the Union.
10. The Union shall be entitled to nominate two (2) members of the Employee Performance Evaluation Review Committee.

#### ARTICLE 15 - DISCIPLINE

1. Any employee disciplinary action taken shall be progressive when practicable and depending upon seriousness and the employee's work record may include:
  - a. warning
  - b. written reprimand
  - c. probation, reassignment and/or transfer, suspension without pay and/or
  - d. discharge

An employee may be suspended without pay. If the employee is suspended for any more than 5 days, alternatively the employee(s) may be re-located to another location, indefinitely pending completion of an investigation when the allegations are of a serious nature, such as, but not limited to, those included in number 5 below.

2. No employee shall be issued written reprimands, placed on probation, reassigned and/or transferred, suspended without pay, or discharged unless:
  - a. the employee could reasonably have been expected to know that disciplinary action for the conduct was possible;
  - b. adherence to the policy, rule, or standard is related to the orderly, efficient, and safe operation of the district;
  - c. a fair and objective effort has been made to identify the facts and the decision is based on evidence;
  - d. the discipline is applied equitably and without discrimination; and
  - e. the degree of discipline is reasonably related to the seriousness of the charges against the employee and the employee's 24-month service record.
3. In any formal disciplinary meeting, the employee may request to have a Union representative present during the meeting.



4. Both parties understand that by policy of the employer and related administrative procedures, after due process the following causes and others comparable in seriousness may cause immediate discharge without warning:
  - a. theft of employer's property,
  - b. immoral conduct,
  - c. insubordination,
  - d. fighting on employer's property or during duty hours,
  - e. failure to report an accident,
  - f. willful or negligent damage of employer's property,
  - g. possession or use or being under the influence of narcotics, hallucinatory drugs or alcohol on employer's property,
  - h. carrying a deadly weapon while on the Employer's premises or during duty hours.
  - i. falsification of the Employer's records and reports.
  - j. failure to maintain credentials and licenses required for the job assignment.
5. Any information used in disciplinary action shall be made available to the employee and the union representative prior to the time the action is taken. The union will be given time to investigate the matter during the grievance procedure.
6. The immediate supervisor or appropriate administrator shall promptly inform the employee/ and the union representative of any disciplinary action and the reasons therefore, unless the employee denies union representation.
7. It shall be the objective of those taking disciplinary action and of the employees that they handle their roles in such a manner as will avoid embarrassment.
8. An employee disciplined in writing shall have the opportunity to make a written response for inclusion in the personnel file within ten (10) days providing a copy to the person taking the disciplinary action.
9. When suspension without pay or discharge is involved the employee upon request shall be granted a meeting with the person administering the action prior to it being taken at which time the employee shall have the right to have a representative of the Union present. The union will be given notice by the employee prior to disciplinary meetings, unless the employee denies union representation. The union may contact Labor Management and Employee Relations should additional time to respond be necessary. T

#### ARTICLE 16 – PERSONNEL FILES

1. No document except those listed below shall be placed in an employee's personnel file:
  - a. Evaluations
  - b. Payroll records
  - c. Change of Status forms, re-election forms, requests/approvals of transfers and leaves of absence forms and correspondence relating to such
  - d. Transcripts, official notifications from universities/colleges
  - e. Contracts of employment, job offers, responses to job offers, and
  - f. Previous employment data
  - g. Applications, references, resumes, and verification of experience and training

- h. Tests taken for a job
- i. Licenses or certifications required for a position
- j. Military service records
- k. Investigative reports and records related to pre-employment, disciplinary action and formal grievance action
- l. Police checks and arrest/court records

2. An employee shall have the right to view the contents of the personnel file except for references, at which time a representative of the Union may be present when requested by the employee. At the employee's request and expense, the employee will receive a copy of any document in the employee's file except for references.
3. There shall not be established a separate confidential personnel file outside the Department of Personnel Services.

#### ARTICLE 17 – ASSIGNMENT/OVERSTAFF/REASSIGNMENT

1. Employees shall be assigned to duties within their job classification with consideration given to their preference and seniority provided this results in the operational needs of the district being met using the following criteria:
  - a. the attainment and maintenance of required skill levels needed for the particular type of work to be performed,
  - b. training specific to the current and requested assignments, and
  - c. number of employees with the skills and training needed.
2. Employees who apply in writing may be reassigned to vacancies in other job classifications within the representation unit with consideration given to their preference provided this results in the operational needs of the district being met using the following criteria:
  - a. seniority
  - b. the attainment and maintenance of required skill levels needed for the particular type of work to be performed,
  - c. training specific to the current and requested assignment,
  - d. number of employees with the skills and training needed,
  - e. overall capabilities and qualifications, and
  - f. affirmative action.
3. Employees who apply for jobs in those vacancies which would result in a salary increase from either a longer work year or higher salary grade shall be given preference, with consideration given to seniority, over those not employed by the school system when the Employer deems them equally qualified, which judgment is reserved solely to the Employer.
4. Interviews may be required after screening for those available applicants who possess the identified desirable qualifications.
5. Employees subject to reassignment probation who are unsuccessful will be assigned to the previous job classification, provided a vacant position is available.

6. A permanent full-time employee appointed by the Superintendent to a budgeted acting position for a minimum of twenty (20) days will be paid retroactively to the first day at the grade level and step at which the employee would be eligible if the position was held regularly. At the end of the acting assignment, the employee's compensation will revert to the former rate of pay.
7. Overstaffed employees will be offered an opportunity to return to vacancies in the school from which they were overstaffed within the first two weeks after school begins.
8. Overstaffed employees will be transferred by job classification to available openings within the same job classification in seniority order in combination with those employees who have requested voluntary transfers, district-wide.
9. Fund source changes will not be made for the purpose of causing an individual employee to be designated as overstaffed.

#### ARTICLE 18 - TRANSFERS

1. Employees who request a transfer on the appropriate form within the established timelines shall be transferred within their job classification from one work location to another when there are openings in seniority order according to preference of the employees provided this results in the operational needs of the district being met using the following criteria:
  - a. the attainment and maintenance of required skill levels needed for the particular type of work to be performed,
  - b. training specific to the current and requested assignments,
  - c. number of employees with the skills and training needed,
  - d. recommendation of receiving supervisor following interview, and
  - e. affirmative action.
2. Actual transfers of school-based employees may be deferred after school starts until the forthcoming year.
3. Employees in the affected job classification shall be considered first for transfers before vacancies are posted at least five (5) business days on a district-wide basis.
4. Employees desiring a transfer will be given consideration in combination with overstaffed employees and before vacancies are advertised.
5. The Union and all work locations shall be provided the Job List electronically of all job postings/vacancies.
6. The Employer shall make other transfers for good cause as may be necessary for the efficient operation of the district.
7. The Union will be provided a vacancy list 10 days prior to the deadline for the submission of transfer requests.
8. The vacancy list shall be updated every 5 days up to one day before the transfer

1 deadline.

## 4 ARTICLE 19 - REDUCTION IN FORCE

6 Contracts with classified employees shall be renewed annually except contracts with the  
7 following employees

9 An employee who has not completed four (4) years of continuous active service, upon written  
10 notice which is provided or mailed to the employee by the superintendent, no later than, May  
11 15 that the contract will not be renewed for the subsequent school year. Upon written request  
12 by the employee, within ten (10) days of the receipt of the notice of non-renewal, the  
13 superintendent shall provide, in a timely manner, written reasons for the non-renewal.

15 An employee who has completed four (4) years of continuous active service, upon written  
16 notice which is provided or mailed to the employee by the superintendent, no later than May  
17 15, that the contract is not being renewed due to one (1) or more of the reasons described  
18 below this section. Nothing in this section shall prevent a superintendent from terminating a  
19 classified employee for incompetency, neglect of duty, insubordination, inefficiency,  
20 misconduct, immorality, or other reasonable grounds which are specifically contained in Board  
21 policy. Upon written request within ten (10) business days of the receipt of the notice of non-  
22 renewal, the employee shall be provided with a specific and complete written statement of the  
23 grounds upon which the non-renewal is based. The employee shall have ten (10) business  
24 days to respond in writing to the grounds for non-renewal.

26 The superintendent shall have full authority to make a reduction in force due to reductions in  
27 funding, enrollment, or changes in the district or school boundaries. Or other compelling  
28 reasons as determined by the superintendent.

30 When a reduction of force is necessary, the superintendent shall, within each job classification  
31 affected, reduce classified employees on the basis of seniority and qualifications with those  
32 employees who have less than four (4) years of continuous active service being reduced first.

34 If it becomes necessary to reduce employees who have more than four (4) years of  
35 continuous active service, the superintendent shall make reductions based upon seniority and  
36 qualifications within each job classification affected.

38 Employees with more than four (4) years of continuous active service shall have the right of  
39 recall positions if positions become available for which they are qualified. Recall shall be done  
40 according to seniority with restoration of primary benefits, including all accumulated sick leave  
41 and appropriate rank and step on the current salary schedule based on the total number of  
42 years of service in the District.

44 Section A The Superintendent/designee shall meet with representatives of the Union to  
45 discuss possible reduction in force prior to the individual personnel recommendations being  
46 presented for notification of the Board. Reduction shall occur as follows:

- 48 1. The Employer will identify for layoff the least senior employees in categories affected by  
49 reduction/elimination of positions.
- 51 2. Employees whose positions have been eliminated shall be considered for positions for



which they are qualified which are available for assignment resulting from resignations, retirements, or other attrition and those vacated by employees identified for layoff.

3. An effort will be made to make assignments within the job description from which reduced and which will result in the least reduction in compensation.

4. An employee is exempt from layoff if:

- a. the employee holds a position in a salary grade greater than that held by any employee affected by reduction/elimination of position, or
- b. the employee holds a position for which no unassigned employee is qualified.

Section B The following shall apply in the recall/restoration of employees who have been laid-off or affected by the reduction:

- 1. Affected employees shall be considered for recall/restoration in order of seniority before the positions from which employees have been laid-off/reduced are filled by new applicants.
- 2. Laid-off employees requesting it in writing will be considered for filling an opening in a job description other than the one from which they were laid-off and for which they are deemed qualified before new applicants are considered.
- 3. A laid-off employee who rejects recall, fails to report for work when assigned, or who resigns or retires will no longer be considered for recall/restoration.

Section C Laid-off employees who have taken other full-time employment must confirm notification of recall within twenty-four (24) hours.

Section D Laid-off employees shall furnish to the Employer their current address and telephone number to which all communication shall be directed while they are on layoff.

Section E While the employee is laid off, the employee will have the option at the employee's expense to remain an active participant in all local and State paid insurance benefit programs to the extent they are available to the employee from the carriers.

Section F During a reduction in force, the employee may apply for employment as a substitute within a job classification and shall be given preference before other substitute applicants are employed.

Section G Upon return to active employment following lay-off, the employee shall be credited with sick leave and will be placed on the proper grade and step of the current salary schedule.

Section H An employee shall be removed from the recall list after two (2) consecutive years in layoff status.

Section I The Union shall be provided a list of the names and job classifications of laid-off employees on or before May 15 of each school year.

## ARTICLE 20 - REORGANIZATION/DEMOTION

Section A The Superintendent/designee shall meet with representatives of the Union to discuss possible personnel changes dealing with reorganization and demotion prior to the recommendations being presented for notification of the Board. Reorganization/-demotion shall occur as follows:

1. The Employer will identify and provide to the Union a list of personnel who will be affected by the reorganization or who will be demoted.
2. Employees whose positions have been reclassified or demoted to a lower salary grade shall be considered for positions held prior to reorganization for which they are qualified and which are available for assignment resulting from resignations, retirements, or other attrition.
3. An effort will be made to make assignments that will result in the least reduction in compensation.

Section B The following shall apply for employees who have been affected by reorganization or demotion:

1. Affected employees shall be considered before other applicants for positions for which they are qualified that have a salary grade equal to the salary grade held prior to the reorganization.
2. The employee will be placed on the proper step that would have been obtained if the employee had not been reclassified or demoted.
3. This consideration will be given to employees for a period of one (1) school year following the reorganization or demotion.

## ARTICLE 21 – CALENDAR

The Superintendent shall appoint two (2) employees to serve on the School Calendar Committee from among those nominated by the Union. The employees shall have the opportunity to offer suggestions and to make recommendations with respect to the development of the Annual School Calendar.

The Superintendent's recommendation to the Board pertaining to the adoption of the Annual School Calendar shall be provided in advance to the Union.

## ARTICLE 22 - GRIEVANCE PROCEDURE

Section A Definition

1. Grievance means an allegation or complaint that there has been a violation, misapplication, or misinterpretation of a specific provision(s) contained within this Agreement, (or board policy)

2. Grievant means the person(s) or Union making the allegation or complaint.

### Section B Purpose

The purpose of this Grievance Procedure is to resolve at the lowest possible administrative level by as informal proceedings as may be appropriate any grievances which may arise.

### Section C Representation

In any formal grievance meeting, the employee may have a Union representative present during the meeting. If the Union opts to represent the employee in a formal grievance meeting, notice shall be given two (2) days in advance by the representative to the administrator conducting the meeting. The Union shall have the right to be present at the Level II and higher meetings.

### Section D Informal Procedure

An employee who believes that there is a basis for a grievance shall within ten (10) days of the employee's awareness of a violation, misapplication, or misinterpretation of the specific provisions(s) meet and discuss the complaint with the immediate supervisor with the objective of resolving it informally. If the employee does not accept the immediate supervisor's disposition of the complaint which shall be made within five (5) days the employee shall be entitled to file a formal grievance within five (5) days after being informed of its disposition.

### Section E Formal Procedure

Except with respect to the right to initiate and process complaints at Level I, only the Union shall be recognized to represent the interests of the employee covered by this Agreement in the processing and redress of grievances arising under this Agreement.

A formal grievance shall be processed in accordance with the procedures outlined below:

Level I: The grievant within five (5) days after being informed of its informal disposition, may present the written grievance to the principal or administrative unit director or other appropriate administrator. The administrator shall discuss with the employee the nature of the complaint and any action that the supervisor believes could be taken to resolve the grievance. The administrator shall provide a written decision to the employee no later than five (5) days after receipt of the employee's formal grievance.

Level II: If the grievant continues the allegation of violation, misapplication, or misinterpretation following the response received from the administrator the employee may present within five (5) days from receipt of the Level I decision the written grievance to the assistant superintendent or other appropriate department head. This administrator will investigate the allegation, review previously presented information and the Level I response, may meet with the employee, and shall provide a written decision to the employee within five (5) days after receipt of the grievance. If Level I administrator is a principal or department head, Level II is waived and grievance proceeds to Level III.

Level III: If the grievant continues the allegation of violation, misapplication, or misinterpretation the written grievance may be presented within five (5) days from receipt of the Level II decision to the Superintendent/designee. The

1 Superintendent/designee shall review previously presented information and  
 2 administrative decisions, and conduct any necessary meetings and investigations. The  
 3 Superintendent/designee shall provide a written decision to the grievant within ten (10)  
 4 days after receipt of the appeal.

5  
 6 Level IV: Section A: If, after receiving the Level III decision, the Union continues the  
 7 allegation of violation, misapplication, or misinterpretation, the Union may submit the  
 8 written grievance to mediation by notifying the Superintendent/-designee within twenty  
 9 (20) days of receipt of the Level III decision. The Parties shall request the Federal  
 10 Mediation and Conciliation Service (FMCS) or the Louisville Labor-Management  
 11 Committee to provide a list of seven (7) impartial persons qualified to act as mediator.  
 12 The Parties will each strike one mediator's name from the list of seven (7) and will repeat  
 13 the procedure. The remaining person shall be the duly selected mediator.

14  
 15 The mediator shall have authority to meet with the grievant and authorized  
 16 representatives of the Employer and the Union and make procedural rules consistent  
 17 with this Agreement. Such meetings shall be held as promptly as practicable after the  
 18 request for mediator and the mediation. The mediator shall first make every reasonable  
 19 effort to resolve the grievance as promptly as practicable after the request for mediation.  
 20 If unsuccessful, the mediator shall hold a formal arbitration hearing then issue a written  
 21 decision within a reasonable time but no later than sixty (60) days after the date of  
 22 selection.

23  
 24 The mediator shall be without power or authority to alter, amend or modify any of the  
 25 terms of this Agreement or to offer any opinion which is contrary to or violate of the terms  
 26 of this Agreement. The opinion of the mediator shall be submitted in writing setting forth  
 27 findings of fact and conclusions to the Parties and will be final and binding on the  
 28 Parties, unless rejected by a four-fifths (4/5) vote of the Board voting at a public meeting  
 29 to be held within twenty (20) days. Prior to the Board voting, the Union shall have the  
 30 right to have a representative appear and present the Union's position. TA 6/11/12

31  
 32 The costs for the services of the mediator, including per diem expenses, if any, travel  
 33 and subsistence expenses and the cost of any hearing room will be borne equally by the  
 34 Employer and the Union. All other costs will be borne by the party incurring them.

35  
 36 Section B: Any grievance arising from termination will be waived to Level III (3).

### 37 38 Section F Grievances Arising From Other Than Immediate Supervisor

39  
 40 An employee who believes that there is a basis for a grievance arising from an action or  
 41 inaction on the part of an administrator other than the immediate supervisor may initiate a  
 42 grievance which shall be handled using the same procedure and timelines provided for in  
 43 Sections D and E.

### 44 45 Section G Grievance Meetings and Hearings

46  
 47 All grievance meetings and hearings required during the formal stage shall be closed except to  
 48 the grievants, Union representative(s), Employer representative(s), and essential witnesses.  
 49  
 50  
 51



## 1    Section H General Provisions

- 2
- 3    1. The time limits provided for in this Grievance Procedure shall be strictly observed unless
- 4        extended by mutual agreement. Failure of the employee to proceed with the
- 5        complaint/grievance within the time limits provided shall result in its dismissal. Failure of
- 6        the administrator(s) to respond within the time limits provided shall entitle the employee
- 7        to proceed to the next step in the Grievance Procedure.
- 8
- 9    2. A grievance may be withdrawn by the employee at any time and at any step of the
- 10        Grievance Procedure; provided, however, the same grievance shall not be filed the
- 11        second time by the same employee after the grievance has been withdrawn.
- 12
- 13    3. The filing of a grievance shall in no way interfere with the responsibility of the employee
- 14        to fulfill assigned duties (unless arbitration ruling states otherwise).
- 15
- 16    4. The employee and the Union are required to exhaust the Grievance Procedure before
- 17        seeking alternative remedies including rights to which they are entitled under the law.
- 18
- 19    5. The commencing of a legal or administrative appeal proceeding by an employee or the
- 20        Union against the Employer in a court of law or equity or any Federal, State, or local
- 21        administrative agency alleging misapplication or misinterpretation of any provisions of
- 22        this Agreement shall be deemed an election of remedy and a waiver by said employee
- 23        or Union of their right to resort to the Grievance Procedure.
- 24
- 25    6. Grievance forms shall be prepared by the Employer and reviewed by the Union which
- 26        shall have the responsibility for the distribution of the approved forms for filing
- 27        grievances. The costs of the grievance forms shall be borne by the Employer.
- 28
- 29    7. The Union shall only be entitled to initiate with the appropriate administrator and process
- 30        through Section D and the applicable steps of Section E a complaint/grievance alleging
- 31        violation, misapplication, or misinterpretation of a provision(s) within this Agreement
- 32        specific to Union rights and entitlements and those which affect a substantial number of
- 33        employees district-wide.
- 34
- 35    8. Grievance decisions and appeals under Section E shall be in writing with copies
- 36        transmitted promptly to the grievant, Union, and Superintendent/designee(s).
- 37
- 38    9. The Union reserves the right to settle grievances at any level.
- 39
- 40

## 41                    ARTICLE 23 - PRINTING

- 42
- 43    1. The collective bargaining agreement shall be available on the Board's web page.
- 44
- 45    2. The Employer shall furnish 500 copies to the Union for its use.
- 46
- 47
- 48

## 49                    ARTICLE 24 - SAVINGS

50    Should an article, section or clause of this Agreement be determined by the appropriate

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1 agency or court to be illegal or contrary to federal, state or local law or regulations, it shall be  
 2 automatically deleted. The remaining articles, sections and clauses shall remain in full force  
 3 and effect for the established duration, if not affected by the deleted article, section or clause.  
 4

#### 5 6 ARTICLE 25 - DURATION 7

- 8 1. The Employer agrees to take such action as necessary to give full force and effect to the  
 9 provisions of this Agreement. The provisions contained within this Agreement supersede  
 10 and cancel any previous understandings or any duty of the Employer to continue any  
 11 other policy, rule, or practice and shall supersede any rules, regulations, or practice of  
 12 the Employer which are contrary. The Employer shall make no change in wage rates or  
 13 compensable benefits specifically included in this Agreement without prior notification of  
 14 and, to the extent practicable, participation by the Union.  
 15
- 16 2. Either party desiring changes, additions or deletions in the Agreement shall notify the  
 17 other party in writing and request a conference which must be held within thirty (30)  
 18 days. Changes, deletions or additions will be negotiated only upon mutual consent of  
 19 both parties.  
 20
- 21 3. The provisions contained within this Agreement shall be effective from July 1, 2012  
 22 through June 30, 2017 with the exception of Article 10, Compensation, which will be re-  
 23 opened for negotiations for the 2013-14 school year and each subsequent year unless  
 24 bargained otherwise. Bargaining will occur during the month of June each year specified  
 25 in the collective bargaining agreement.  
 26
- 27 4. This Agreement as contained herein is made by and between the Employer and the  
 28 Union as of June 25, 2012.  
 29  
 30

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3  
4 Diane L. Porter, Chairperson  
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8 Donna M. Hargens, Ed.D., Superintendent  
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12 Michael Raisor,  
13 Chief Operations Officer  
14  
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17 Carolyn Meredith, Spokesperson  
18 Director of Employee Relations  
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21 Jefferson County Association of Educational Support Personnel/AFSCME LOCAL 4011  
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25 Joe Phelps  
26 AFSCME Council 62 Associate Director  
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30 Kevin Baird, Staff Representative  
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32

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34 Sandra Mayes, President  
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NEGOTIATION TEAMS

EMPLOYER:

Carolyn Meredith, Spokesperson

Michael Raisor, Chief Operating Officer

Mary Persley, Human Resources

Rob Tanner, Labor Management and Employee Relations

John Collopy, Financial Planning and Management

ASSOCIATION:

Kevin Baird, Staff Representative

Sandy Mayes, McFerran Preparatory Academy

Sherry Willis, Wellington Elementary

DeDe Epperson, Butler Traditional High School

Pam Brunner, Bowen Elementary

Stephanie Given, C B Young

n



AFSCME COUNCIL 962  
2014

**Exhibit B**

**NOTICE TO ALL NON-MEMBER FAIR SHARE FEE PAYER  
Kentucky**

This notice is being provided to all individuals who pay agency fees or fair share fees to Council 962 of the American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME") under collective bargaining agreements between AFSCME and various public employers in the State of Indiana.

**PLEASE READ THIS NOTICE CAREFULLY.  
IT CONTAINS IMPORTANT INFORMATION AND  
PROCEDURES CONCERNING YOUR LEGAL RIGHTS.**

As a nonmember represented by AFSCME Council 962, you are being charged a fair share fee which is equal to your proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of employment. The United States Supreme Court has held that assessment of a fair share fee for such costs is constitutional. You have a right to challenge the accuracy of the Union's calculation of chargeable expenses and to have that challenge resolved by an impartial decision maker. If you wish to exercise these rights, you must follow the procedures detailed in this Notice.

The AFSCME Council 962 calculation of expenses for which nonmember fair share fee payers can be charged a pro rata share is based on the following audited financial information. This financial information sets forth the basis for the calculation that **48.989 %** of the expenditures of AFSCME and **92.170 %** of the expenditures of Council 962 are chargeable to nonmember fair share fee payers pursuant to the criteria set forth in this Notice. A weighted average of these two figures results in an agency fee of **\$12.10 biweekly**. (Full time employee working 20 plus hours per week)

Your fair share fee does not include a pro rata share of the costs incurred by your local union in serving as your bargaining representative. Although the overwhelming proportion of the activities of the **local unions** relate to collective bargaining and contract enforcement, i.e., chargeable activities, the time and costs associated with performing a review of the local unions' activities to determine the exact

chargeable percentage, and the costs of an audit, have led us to decide to waive our right to collect a fair share fee to help pay the expenses of these activities. In Short, you will receive the benefits of these collective bargaining related activities without having to pay for them.

**IF YOU WISH TO CHALLENGE THE FAIR SHARE FEE THAT YOU WILL BE REQUIRED TO PAY, YOU MUST COMPLY WITH THE CHALLENGE PROCEDURE SET FORTH LATER IN THIS NOTICE DEFINITIONS AND SIGNIFICANT FACTORS AND ASSUMPTIONS RELATING TO THE ALLOCATION OF EXPENSES BETWEEN CHARGEABLE AND NONCHARGEABLE EXPENSES OF AFSCME**

Chargeable expenses include those incurred by AFSCME that reflect the share of the costs of operations of AFSCME which are considered necessarily and reasonably incurred for the purpose of assisting affiliated councils and local unions in the performance of their duties as representatives of the employees in dealing with the employer on labor management issues, including the costs of: negotiating and administering, and securing the ratification and implementation of collective bargaining agreements; settling grievances and disputes by mutual agreement, or in arbitration, court or otherwise; activities and undertakings normally and reasonably employed to implement the duties of AFSCME as the representative of the employees; pursuing ratification or implementation of agreements affecting employees represented by AFSCME before legislative or administrative bodies; communicating with employees on matters of concern to them; and the maintenance of the associational existence of AFSCME and its affiliates.

The following are examples of expenses classified as chargeable: preparation for the negotiation and the negotiation of collective bargaining agreements; contract administration, including investigating and processing grievances; meetings, conferences, administrative and arbitral proceedings, and pertinent investigation and research in connection with work-related subjects and issues; handling work-related problems of employees; communications with employers, elected officials, governmental agencies, and media with respect to AFSCME position on collective bargaining related matters; lobbying and legislative activities



with respect to matters concerning the negotiation, ratification or implementation of collective bargaining agreements; and providing legal, economic and technical expertise on behalf of employees in all work-related matters. Non-chargeable expenses include those of an ideological or political nature and other activities unrelated to collective bargaining and the work-related interests of employees. Also included in categories of non-chargeable expenses are expenses associated with organizing, and union benefits available only to members.

The following are examples of expenses classified as non-chargeable: contributions to political candidates and political parties; fundraising for political candidates, political parties, or political action committees; voter registration and political get out the vote activities; international affairs; activities concerning judicial nominations; endorsements of political candidates; contributions to or participation in activities sponsored by organizations that are unrelated to collective bargaining or other work-related interests; and members only benefits.

Significant factors and assumptions underlying the allocation of expenses between chargeable and non-chargeable amounts are summarized as follows:

a. For purposes of the calculation, except as noted below, departments are classified as either program or management departments. Program departments implement the programs of AFSCME, and provide services to AFSCME affiliates. Allocations of chargeable and non-chargeable expenses of the program departments are made on the basis of a review of the activities and expenses of the individual departments.

Management departments oversee and coordinate the functions of AFSCME and provide support functions to the program departments. Included among the management departments are the International Union Officers and their staffs, Business Office, Human Resources, Meeting and Travel, and the other Union governing bodies such as the International Executive Board, and the International

Convention. The expenses for the management departments are allocated as chargeable and non-chargeable in the same proportion as the total chargeable and non-chargeable expenses of the program departments. The overhead attributable to the program departments is included as a management department expense in determining the chargeable and non-chargeable proportion of their expenses.

The expenses of the Judicial Panel are determined to be fully chargeable. The Office of the General Counsel of the International Union consists of expenses which were allocated based upon a review of the activities of the attorneys employed in that office, and expenses incurred by the International Union for other outside attorneys, which were allocated based upon the nature of the services and subject matter for which they are retained.

b. For purposes of this calculation, organizing expenses are treated as non-chargeable. The Field Services Department is responsible for all of the International Union I S organizing activities. The Field Services Department engages in organizing activities in two ways. First, the Field Services Department has certain employees who have, as one of their responsibilities, the organizing of new members. Second, the Field Services Department provides grants to AFSCME affiliates to permit them to engage in organizing.

The Union examines the staff that may have any involvement in organizing, either internal organizing in pre-existing bargaining units, or external organizing of new bargaining units. To the extent such staff is involved in organizing, their salaries are treated as non-chargeable. The cost of all health and retirement benefits and all travel expenses of each permanent field service staff person who engaged in any organizing activities are treated as non-chargeable to the same extent as the salary of such person. Additionally, all overhead costs associated with organizing are treated as non-chargeable.



Certain of the activities of the Field Services Department are conducted through projects. Each of those projects is examined, and, if the purpose of the project includes any organizing, that portion of the project related to organizing, including that portion of the salaries, benefits and travel expenses of project staff employed in connection with such project is treated as non-chargeable.

Finally, the Field Services Department makes certain grants to AFSCME locals and councils for a variety of purposes, including organizing by the Union. All of these grants are reexamined by the Union and if the purpose of the grant includes organizing, that portion of the grant is treated as non-chargeable.

c. Costs associated with AFSCME publications, including editorial, production, and distribution expenses, are allocated on the basis of a column inch analysis of the chargeable content of the publication.

d. For the purpose of allocating personnel costs, it is assumed that employees work 7 hours per day and 232 days per year. The employee benefits percentage rate is based on a comparison of total department employee benefits to total department salary costs. Employee benefits are allocated on a departmental basis, based upon total chargeable and non-chargeable salary, multiplied by the benefits percentage rate.

e. Activities of the program department staff are individually analyzed and are allocated on the basis of chargeable activities. The personnel costs of the public affairs staff involved in editing or production of AFSCME's publications are allocated on the basis of the chargeable content of the publications.

f. Reimbursed and charged travel expenses of the program department staff are individually analyzed and allocated as chargeable or non-chargeable depending on the nature of the activity. Reimbursed expenses of the Public Affairs staff involved in the editing and production of AFSCME publications are

allocated on the basis of the chargeable content of the publication.

g. Headquarters overhead expenses are allocated on the basis of the activities of headquarters personnel. All headquarters overhead expenses are allocated to headquarters departments on the basis of the individual department's percentage of total headquarters salary costs. Included in the calculation of headquarters overhead costs are general operating and building service costs. Overhead expenses allocated to each department are allocated between chargeable and non-chargeable on the basis of chargeable salaries as a percentage of total salaries within that department.

h. Field overhead expenses are pooled and allocated on the basis of the activities and salaries of field staff. Included in the calculation of field overhead costs are office rental, equipment, and general operating costs of the field offices. Field overhead expenses are allocated between chargeable and non-chargeable on the basis of chargeable field staff salaries as a percentage of total field staff salaries.

i. Grants to AFSCME affiliates are individually analyzed and allocated on the basis of their chargeable content.

j. Contributions and participations are individually analyzed and allocated on the basis of their chargeable content.

k. Affiliation payments to other labor organizations are either treated as entirely non-chargeable or allocated on the basis of the percentage of chargeable expenses of the recipient organization.



DESCRIPTION AND CHARGABLE OF ACTIVITIES WITHIN  
COUNCIL 962 ACCOUNTING CATEGORIES

The staff and lawyers of Council 962 have used the criteria for determining chargeability of activities listed below to analyze Council 962's expenses. Based upon that analysis, Council 962 has concluded that **92.170%** of its expenses relate to its responsibilities as an exclusive bargaining representative, and are appropriately chargeable to agency fee payers who object to funding the union's political or ideological activities. Only expenses related to collective bargaining, representation, and matters of benefits to all bargaining unit members are deemed chargeable. Any expenses related to organizing, political, ideological or other matters were deemed non-chargeable. In the sections below, we briefly describe the activities of Council 962, and how the activities were considered chargeable or non-chargeable to agency fee payers.

Salaries, Staff costs & Employee Benefits: The activities of Council 962 staff were analyzed for the prior fiscal year. Council 962 deemed chargeable that portion of the salaries which reflected time devoted to representing members and fee payers in the collective bargaining process. All other activities, including time devoted to organizing, political and/or ideological activities were deemed non-chargeable. Employee benefits were deemed chargeable in the same percentage as the chargeable percentage of employee salaries.

General and administrative expenses: General and administrative expenses include supplies, postage, utilities, equipment, rent, repair, insurance, property insurance, bank charges and depreciation. The primary Council 962 office, located at 1424 N. Pennsylvania Street, Indianapolis, Indiana 46202, is the Union's headquarters. Council 962 also maintains several satellite offices, which serve as work and meeting places for bargaining unit members, local union officers and staff. Although the offices must be maintained to service all bargaining unit members, including fair share fee payers, these expenses have been allocated on the basis of chargeable v. non-chargeable as set forth above, and only the

chargeable percentage has been allocated to these expenses.

Payroll Taxes: The chargeable percentage of salaries of Council 962 staff was allocated to payroll taxes.

Conferences and conventions; Conferences and conventions are an important part of the service we provide. The convention is the supreme governing body, and it is through the convention that local unions participate in AFSCME decision making. Conferences enable staff and members to education themselves in order to better serve all bargaining unit members in grievance handling, health and safety and other conditions of employment. Through this education process, we improve the level and quality of service you receive from Council 962. Conference and convention expenses are treated as chargeable to fee payers to the extent they relate to the service provided by Council 962 to bargaining unit members.

Member Services: Member services include advertising and promotion, contributions and participations, dues, books, subscriptions, educational training and supplies, flowers and benevolences, awards, mailing services, printing and duplicating, scholarships, and travel costs. These expenses were analyzed and deemed chargeable or non-chargeable as set forth above.

Professional services: Professional services include legal/arbitration fees, which are deemed chargeable to the extent they are expended to protect the rights of bargaining unit members through grievance processing. Consultants and other professional services were deemed chargeable v. non-chargeable as set forth above.

Meetings: Meetings include airfare, hotel, meals, supplies and entertaining associated with meetings. Such expenses were deemed chargeable to the extent the meetings concerned representational activities of Council 962.



AFSCME COUNCIL 962 PROCEDURES FOR CHALLENGING  
THE AMOUNT OF THE FAIR SHARE FEE

AFSCME Council 962 has established the following procedure for fair share fee payers who wish to challenge the foregoing calculation and the amount of the AFSCME fair share fee. **PLEASE READ THIS PROCEDURE CAREFULLY. YOU MUST COMPLY WITH THESE PROCEDURES IN ORDER TO CHALLENGE THE COUNCIL 962 FAIR SHARE FEE.**

A. CHALLENGES: Fair share fee payers must inform Council 962 of their challenge to the amount of the fair share fee in writing. The written challenge should include the challenger's name, address, social security number, and job title, employer, employing agency, work location and local affiliation if known. The written challenge must be received by Council 962 at the following address postmarked no later than 30 days following the receipt of this notice: **Attorney David Suetholz, 515 Park Avenue, Louisville, Ky 40208**

B. AFSCME COUNCIL 962 ARBITRATION PROCEDURE: AFSCME Council 962's Arbitration Procedure for resolving challenges to the amount of the fair share fee will result in an expeditious decision on all challenges by an impartial decision maker. The decision maker will be an arbitrator selected by the American Arbitration Association. The arbitration proceeding will be conducted pursuant to the American Arbitration Association rules governing fair share cases. Challengers have the right to appear before the arbitrator and state their objections to the calculation of the fair share fee. The arbitrator will issue a timely decision regarding challenges to the amount of fair share fee. Challengers will receive further information regarding this procedure upon the union's receipt of their challenge.

C. ESCROW OF FAIR SHARE FEES: If we receive a written challenge, we will escrow any fair share fees we receive from the challengers. The fair share fees shall remain in escrow until the arbitration award is issued and shall be distributed pursuant to the arbitrator's ruling.

## Exhibit C

AFSCME COUNCIL 962  
2015  
NOTICE TO ALL NON-MEMBER FAIR SHARE FEE PAYER  
Kentucky-Jefferson County Schools

This notice is being provided to all individuals who pay agency fees or fair share fees to Council 962 of the American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME") under collective bargaining agreements between AFSCME and various public employers in the State of Kentucky.

**PLEASE READ THIS NOTICE CAREFULLY.  
IT CONTAINS IMPORTANT INFORMATION AND  
PROCEDURES CONCERNING YOUR LEGAL RIGHTS.**

As a nonmember represented by AFSCME Council 962, you are being charged a fair share fee which is equal to your proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of employment. The United States Supreme Court has held that assessment of a fair share fee for such costs is constitutional. You have a right to challenge the accuracy of the Union's calculation of chargeable expenses and to have that challenge resolved by an impartial decision maker. If you wish to exercise these rights, you must follow the procedures detailed in this Notice.

The AFSCME Council 962 calculation of expenses for which nonmember fair share fee payers can be charged a pro rata share is based on the following audited financial information. This financial information sets forth the basis for the calculation that **60.232 %** of the expenditures of AFSCME and **100.00 %** of the expenditures of Council 962 are chargeable to nonmember fair share fee payers pursuant to the criteria set forth in this Notice. A weighted average of these two figures results in an agency fee of **\$14.92 Semi-Monthly**. (Full time employee working 20 plus hours per week)

Your fair share fee does not include a pro rata share of the costs incurred by your local union in serving as your bargaining representative. Although the overwhelming proportion of the activities of the **local unions** relate to collective bargaining and contract enforcement, i.e., chargeable activities, the time and costs associated with performing a review of the local unions' activities to determine the exact

chargeable percentage, and the costs of an audit, have led us to decide to waive our right to collect a fair share fee to help pay the expenses of these activities. In Short, you will receive the benefits of these collective bargaining related activities without having to pay for them.

**IF YOU WISH TO CHALLENGE THE FAIR SHARE FEE THAT YOU WILL BE REQUIRED TO PAY, YOU MUST COMPLY WITH THE CHALLENGE PROCEDURE SET FORTH LATER IN THIS NOTICE DEFINITIONS AND SIGNIFICANT FACTORS AND ASSUMPTIONS RELATING TO THE ALLOCATION OF EXPENSES BETWEEN CHARGEABLE AND NONCHARGEABLE EXPENSES OF AFSCME**

Chargeable expenses include those incurred by AFSCME that reflect the share of the costs of operations of AFSCME which are considered necessarily and reasonably incurred for the purpose of assisting affiliated councils and local unions in the performance of their duties as representatives of the employees in dealing with the employer on labor management issues, including the costs of: negotiating and administering, and securing the ratification and implementation of collective bargaining agreements; settling grievances and disputes by mutual agreement, or in arbitration, court or otherwise; activities and undertakings normally and reasonably employed to implement the duties of AFSCME as the representative of the employees; pursuing ratification or implementation of agreements affecting employees represented by AFSCME before legislative or administrative bodies; communicating with employees on matters of concern to them; and the maintenance of the associational existence of AFSCME and its affiliates.

The following are examples of expenses classified as chargeable: preparation for the negotiation and the negotiation of collective bargaining agreements; contract administration, including investigating and processing grievances; meetings, conferences, administrative and arbitral proceedings, and pertinent investigation and research in connection with work-related subjects and issues; handling work-related problems of employees; communications with employers, elected officials, governmental agencies, and media with respect to AFSCME position on collective bargaining related matters; lobbying and legislative activities

with respect to matters concerning the negotiation, ratification or implementation of collective bargaining agreements; and providing legal, economic and technical expertise on behalf of employees in all work-related matters. Non-chargeable expenses include those of an ideological or political nature and other activities unrelated to collective bargaining and the work-related interests of employees. Also included in categories of non-chargeable expenses are expenses associated with organizing, and union benefits available only to members.

The following are examples of expenses classified as non-chargeable: contributions to political candidates and political parties; fundraising for political candidates, political parties, or political action committees; voter registration and political get out the vote activities; international affairs; activities concerning judicial nominations; endorsements of political candidates; contributions to or participation in activities sponsored by organizations that are unrelated to collective bargaining or other work-related interests; and members only benefits.

Significant factors and assumptions underlying the allocation of expenses between chargeable and non-chargeable amounts are summarized as follows:

a. For purposes of the calculation, except as noted below, departments are classified as either program or management departments. Program departments implement the programs of AFSCME, and provide services to AFSCME affiliates. Allocations of chargeable and non-chargeable expenses of the program departments are made on the basis of a review of the activities and expenses of the individual departments.

Management departments oversee and coordinate the functions of AFSCME and provide support functions to the program departments. Included among the management departments are the International Union Officers and their staffs, Business Office, Human Resources, Meeting and Travel, and the other Union governing bodies such as the International Executive Board, and the International



Convention. The expenses for the management departments are allocated as chargeable and non-chargeable in the same proportion as the total chargeable and non-chargeable expenses of the program departments. The overhead attributable to the program departments is included as a management department expense in determining the chargeable and non-chargeable proportion of their expenses.

The expenses of the Judicial Panel are determined to be fully chargeable. The Office of the General Counsel of the International Union consists of expenses which were allocated based upon a review of the activities of the attorneys employed in that office, and expenses incurred by the International Union for other outside attorneys, which were allocated based upon the nature of the services and subject matter for which they are retained.

b. For purposes of this calculation, organizing expenses are treated as non-chargeable. The Field Services Department is responsible for all of the International Union I S organizing activities. The Field Services Department engages in organizing activities in two ways. First, the Field Services Department has certain employees who have, as one of their responsibilities, the organizing of new members. Second, the Field Services Department provides grants to AFSCME affiliates to permit them to engage in organizing.

The Union examines the staff that may have any involvement in organizing, either internal organizing in pre-existing bargaining units, or external organizing of new bargaining units. To the extent such staff is involved in organizing, their salaries are treated as non-chargeable. The cost of all health and retirement benefits and all travel expenses of each permanent field service staff person who engaged in any organizing activities are treated as non-chargeable to the same extent as the salary of such person. Additionally, all overhead costs associated with organizing are treated as non-chargeable.

Certain of the activities of the Field Services Department are conducted through projects. Each of those projects is examined, and, if the purpose of the project includes any organizing, that portion of the project related to organizing, including that portion of the salaries, benefits and travel expenses of project staff employed in connection with such project is treated as non-chargeable.

Finally, the Field Services Department makes certain grants to AFSCME locals and councils for a variety of purposes, including organizing by the Union. All of these grants are reexamined by the Union and if the purpose of the grant includes organizing, that portion of the grant is treated as non-chargeable.

c. Costs associated with AFSCME publications, including editorial, production, and distribution expenses, are allocated on the basis of a column inch analysis of the chargeable content of the publication.

d. For the purpose of allocating personnel costs, it is assumed that employees work 7 hours per day and 232 days per year. The employee benefits percentage rate is based on a comparison of total department employee benefits to total department salary costs. Employee benefits are allocated on a departmental basis, based upon total chargeable and non-chargeable salary, multiplied by the benefits percentage rate.

e. Activities of the program department staff are individually analyzed and are allocated on the basis of chargeable activities. The personnel costs of the public affairs staff involved in editing or production of AFSCME's publications are allocated on the basis of the chargeable content of the publications.

f. Reimbursed and charged travel expenses of the program department staff are individually analyzed and allocated as chargeable or non-chargeable depending on the nature of the activity. Reimbursed expenses of the Public Affairs staff involved in the editing and production of AFSCME publications are

allocated on the basis of the chargeable content of the publication.

g. Headquarters overhead expenses are allocated on the basis of the activities of headquarters personnel. All headquarters overhead expenses are allocated to headquarters departments on the basis of the individual department's percentage of total headquarters salary costs. Included in the calculation of headquarters overhead costs are general operating and building service costs. Overhead expenses allocated to each department are allocated between chargeable and non-chargeable on the basis of chargeable salaries as a percentage of total salaries within that department.

h. Field overhead expenses are pooled and allocated on the basis of the activities and salaries of field staff. Included in the calculation of field overhead costs are office rental, equipment, and general operating costs of the field offices. Field overhead expenses are allocated between chargeable and non-chargeable on the basis of chargeable field staff salaries as a percentage of total field staff salaries.

i. Grants to AFSCME affiliates are individually analyzed and allocated on the basis of their chargeable content.

j. Contributions and participations are individually analyzed and allocated on the basis of their chargeable content.

k. Affiliation payments to other labor organizations are either treated as entirely non-chargeable or allocated on the basis of the percentage of chargeable expenses of the recipient organization.

DESCRIPTION AND CHARGABLE OF ACTIVITIES WITHIN  
COUNCIL 962 ACCOUNTING CATEGORIES

The staff and lawyers of Council 962 have used the criteria for determining chargeability of activities listed below to analyze Council 962's expenses. Based upon that analysis, Council 962 has concluded that **100.00 %** of its expenses relate to its responsibilities as an exclusive bargaining representative, and are appropriately chargeable to agency fee payers who object to funding the union's political or ideological activities. Only expenses related to collective bargaining, representation, and matters of benefits to all bargaining unit members are deemed chargeable. Any expenses related to organizing, political, ideological or other matters were deemed non-chargeable. In the sections below, we briefly describe the activities of Council 962, and how the activities were considered chargeable or non-chargeable to agency fee payers.

Salaries, Staff costs & Employee Benefits: The activities of Council 962 staff were analyzed for the prior fiscal year. Council 962 deemed chargeable that portion of the salaries which reflected time devoted to representing members and fee payers in the collective bargaining process. All other activities, including time devoted to organizing, political and/or ideological activities were deemed non-chargeable. Employee benefits were deemed chargeable in the same percentage as the chargeable percentage of employee salaries.

General and administrative expenses: General and administrative expenses include supplies, postage, utilities, equipment, rent, repair, insurance, property insurance, bank charges and depreciation. The primary Council 962 office, located at 1424 N. Pennsylvania Street, Indianapolis, Indiana 46202, is the Union's headquarters. Council 962 also maintains several satellite offices, which serve as work and meeting places for bargaining unit members, local union officers and staff. Although the offices must be maintained to service all bargaining unit members, including fair share fee payers, these expenses have been allocated on the basis of chargeable v. non-chargeable as set forth above, and only the



chargeable percentage has been allocated to these expenses.

Payroll Taxes: The chargeable percentage of salaries of Council 962 staff was allocated to payroll taxes.

Conferences and conventions; Conferences and conventions are an important part of the service we provide. The convention is the supreme governing body, and it is through the convention that local unions participate in AFSCME decision making. Conferences enable staff and members to education themselves in order to better serve all bargaining unit members in grievance handling, health and safety and other conditions of employment. Through this education process, we improve the level and quality of service you receive from Council 962. Conference and convention expenses are treated as chargeable to fee payers to the extent they relate to the service provided by Council 962 to bargaining unit members.

Member Services: Member services include advertising and promotion, contributions and participations, dues, books, subscriptions, educational training and supplies, flowers and benevolences, awards, mailing services, printing and duplicating, scholarships, and travel costs. These expenses were analyzed and deemed chargeable or non-chargeable as set forth above.

Professional services: Professional services include legal/arbitration fees, which are deemed chargeable to the extent they are expended to protect the rights of bargaining unit members through grievance processing. Consultants and other professional services were deemed chargeable v. non-chargeable as set forth above.

Meetings: Meetings include airfare, hotel, meals, supplies and entertaining associated with meetings. Such expenses were deemed chargeable to the extent the meetings concerned representational activities of Council 962.

AFSCME COUNCIL 962 PROCEDURES FOR CHALLENGING  
THE AMOUNT OF THE FAIR SHARE FEE

AFSCME Council 962 has established the following procedure for fair share fee payers who wish to challenge the foregoing calculation and the amount of the AFSCME fair share fee. **PLEASE READ THIS PROCEDURE CAREFULLY. YOU MUST COMPLY WITH THESE PROCEDURES IN ORDER TO CHALLENGE THE COUNCIL 962 FAIR SHARE FEE.**

A. CHALLENGES: Fair share fee payers must inform Council 962 of their challenge to the amount of the fair share fee in writing. The written challenge should include the challenger's name, address, social security number, and job title, employer, employing agency, work location and local affiliation if known. The written challenge must be received by Council 962 at the following address postmarked no later than 30 days following the receipt of this notice: **Attorney David Suetholz, 515 Park Avenue, Louisville, KY 40208**

**If you have previously sent a challenge letter for 2015 fair share, another is not needed.)**

B. AFSCME COUNCIL 962 ARBITRATION PROCEDURE:

AFSCME Council 962's Arbitration Procedure for resolving challenges to the amount of the fair share fee will result in an expeditious decision on all challenges by an impartial decision maker. The final amount of fair share fee, as determined by the arbitration award, by the Louisville Labor-Management decision or judgment of a court shall reflect only those expenses affirmatively related to representative the non-member employee in matters of collective bargaining, grievances and contract administration. The union shall provide to the arbitrator, Louisville Labor Management Committee, or court as applicable, all financial and other records of the union deemed relevant by the adjudicating body. Challengers have the right to appear before the arbitrator and state their objections to the calculation of the fair share fee. The arbitrator will issue a timely decision regarding challenges to the amount of fair share fee. Challengers will receive further information regarding this procedure upon the union's receipt of their

challenge.

C. ESCROW OF FAIR SHARE FEES: If we receive a written challenge, we will escrow any fair share fees we receive from the challengers. The fair share fees shall remain in escrow until the arbitration award is issued and shall be distributed pursuant to the arbitrator's ruling.



## Exhibit D

*American Federation of  
State, County and Municipal Employees, AFL-CIO*

March 28, 2014

To: Fair Share Members of Jefferson County Schools

Subject: Fair Share rate in error

In our previous notice, we stated the incorrect rate for your fair share; the correct rate is \$13.11 per pay.

This is what your payroll department is currently deducting.

Enclosed is a corrected Fair Share notice.

No action on your part is required.

My apologies for the confusion this error may have caused you.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Poer".

Roger Poer

Controller

1424 North Pennsylvania Street  
Indianapolis, Indiana 46202-2486  
Phone 317/632-1432  
Fax 317/624-6609

4315 Preston Hwy., #101  
Louisville, KY 40213  
Phone 502/363-4074  
Fax 502/366-5936

2222 W. Ridge Road  
Gary, IN 46408  
Phone 219/985-2618  
Fax 219/985-2641

2328 Miracle Lane  
Mishawaka, IN 46545  
Phone 574/289-1410  
Fax 574/289-1772

[www.afscme962.org](http://www.afscme962.org)

