

PROFESSIONAL ASSISTANCE

SECTION 12
ACSA POLICIES & PROCEDURES

Section 12 — Professional Assistance

A. Professional Assistance

Policies:

12.1 Plan of Self-Policing and Member Protection

The association will assist in maintaining excellence in administrative leadership through a plan of self-policing and member protection.

12.2 Code of Ethics

The code of ethics and implementing policy and procedure, as well as the legal aid policies, as adopted by the representative assembly in 1972, remain in effect unless amended by policies in this section. The code of ethics, etc. is printed annually in the members' handbook.

12.3 Members Represented by a Collective Bargaining Unit

For ACSA members who are represented by a collective bargaining unit, legal assistance or member assistance services shall be granted only when the request relates to an issue which is not included in a collective bargaining agreement or is not subject to the rules and regulations of PERB, and meets the requirements for legal assistance or member assistance services. (Revised: February 2014 Board of Directors)

Procedures:

12.4 Executive Committee's Professional Assistance Responsibility

Member assistance and legal support services are assigned as a major responsibility of the Executive Committee.

(Revised: February 2022 Board of Directors)

12.5 Types of Problems for Which Assistance is Available

Member assistance advocates are available to assist members of ACSA with problems concerning, but not limited to: breach of employment contract, contract review, tenure rights, credential problems, dismissal, demotion, salary policy disputes, suspension and retirement. We do not assist members with criminal charges or civil actions.

(Revised: February 2015 Board of Directors)

12.6 Courses of Action

The assistant executive director or a Member assistance advocate will handle the matter and recommend the course of action to be taken. In some instances, the matter can be resolved through administrative remedies; however, if it is necessary to involve legal counsel, the member will make application for direct legal assistance.

(Revised: February 2014 Board of Directors)

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B. Legal Assistance Guidelines

Policies:

12.7 Eligibility for Legal Assistance

A person requesting legal assistance must have been a regular member in good standing for six months at the time his/her problem arose. Retired members are eligible for legal assistance only if the matter occurred while they were a regular member. You must be an ACSA member to receive this benefit. Retired members are limited to levels 1, 2 and 3 of legal assistance for a total of \$5,400.

(Revised: February 2015 Board of Directors)

12.8 Members Represented by a Collective Bargaining Unit

For ACSA members who are represented by a collective bargaining unit, legal assistance or member assistance services shall be granted only when the request relates to an issue which is not included in a collective bargaining agreement or is not subject to the rules and regulations of PERB, and meets the requirements for legal assistance or member assistance services.

(Revised: February 2014 Board of Directors)

Procedures:

12.9 Direct Legal Assistance

If the foregoing professional assistance has not resolved the problem, the member may make application for direct legal assistance as set forth in Procedure 12.10 — Legal Assistance Plan: Scope and Criteria. If the member's problem meets criteria for legal assistance and his/her application is approved, the following procedures apply:

12.9.1 Panel Attorneys. ACSA has contracted with attorneys in various parts of the state who are experienced in school law matters (panel attorneys). The legal assistance plan contemplates that the member will utilize the services of one of the panel attorneys. Ordinarily, the member will be referred to the panel attorney in his/her geographic region.

12.9.2 Non Panel Attorneys. The member assistance advocate, with the approval of the executive director, or his designee, may approve the use of non panel attorneys in limited instances where in their judgment geographic or emergency conditions warrant such authorization. Legal assistance when authorized in such cases shall be limited to a maximum of \$2,000 (effective July 1, 2004) based on ACSA providing not more than 60% of appropriate legal costs. Members authorized to use non panel attorneys shall be responsible for all billings from and payments to their attorneys. Upon receipt of paid statements from such attorneys ACSA will reimburse to the member through the attorney 60% of authorized costs.

(Revised: February 2014 Board of Directors)

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12.9.3 Preliminary Consultation (2 hours). The program provides that the first two hours of direct legal assistance, when authorized, be provided the member at no charge.

12.9.3.1 Legal assistance without charge to members, who are involved in a common concern, shall be limited to two hours for the first member and fifteen minutes for each additional member to a maximum of 8 hours. Such assistance shall be limited to consultation to determine if further action or litigation is necessary.

12.9.4 Further Legal Assistance. If legal assistance beyond two hours is necessary, the member assistance advocate, with approval of the executive director, or his designee, may approve additional legal assistance to a maximum of \$1,000 (ACSA involvement). ACSA will bear 60% of the authorized costs and the member will bear 40% of such costs.

Example: Based on a 60%-40% split, attorney would bill a maximum of \$1,667, with ACSA paying \$1,000 and the member paying \$667.

12.9.4.1 When such additional assistance is authorized, the member will be notified by telephone or mail. The member shall then make arrangements with the assigned attorney for the payment of their share (40%) of all attorney fees and costs. The attorney shall submit a total billing to ACSA stipulating that portion to be paid by the member (40%) and that portion to be paid by ACSA (60%). The member and the association shall be responsible for making their respective payments directly to the attorney.

12.9.4.2 The member shall assume the responsibility for all legal fees and costs which exceed any amount authorized by the association, and shall sign a Legal Assistance Agreement. Release of ACSA's share of attorney fees is contingent upon the receipt of this signed agreement.

12.9.4.3 In no event, shall ACSA bear any additional costs of legal assistance attributable to a promise for punitive damages; the attorney shall bill the member for all such additional costs and the member shall be responsible for full payment of all such additional costs.

(Revised: February 2014 Board of Directors)

12.9.5 Protracted Legal Assistance. Protracted legal assistance may be authorized in cases where further legal assistance is warranted to

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potentially resolve the problem. Normally, protracted assistance will only occur in litigation cases. (Revised: February 2022 Board of Directors)

12.9.5.1 When the member assistance advocate believes that protracted assistance is needed, he/she will recommend approval to the Senior Director of Member Services, and a monthly report of all such authorizations will be generated and provided to ACSA's Executive Committee. (Revised: February 2022 Board of Directors)

12.9.5.2 Following approval by the Senior Director of Member Services, ACSA shall bear 60% of additional legal fees and costs (not to exceed \$4,000) and the member shall bear 40%. (Revised: February 2022 Board of Directors)

12.9.5.3 When such additional assistance is authorized, the member will be notified by telephone or mail. The member shall then make arrangements with the assigned attorney for the payment of his/her share (40%) of all attorney fees and costs. The attorney shall submit a total billing to ACSA stipulating that portion to be paid by the member (40%) and that portion to be paid by ACSA (60%). The member and the association shall be responsible for making his/her respective payments directly to the attorney.

12.9.5.4 The member shall assume the responsibility for all legal fees and costs which exceed any amount authorized by the association, and shall sign a Legal Assistance Agreement. Release of ACSA's share of attorney fees is contingent upon the receipt of this signed agreement.

12.9.5.5 Eligible members with ten years, or less, as an ACSA member shall be eligible for a maximum of \$5,500. Beginning in year eleven, members shall be eligible for a maximum of \$500 of legal assistance for each year of ACSA membership. All requests for protracted legal assistance remain under the purview of the Senior Director of Member Services. Retired members are limited to levels 1, 2 and 3 of legal assistance for a total of \$5,500. (Revised: February 2014 Board of Directors)

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12.10 Legal Assistance Plan: Scope and Criteria

12.10.1 Scope. Legal assistance may be provided to members for employment-related problems including:

- 1) breach of employment contract
- 2) tenure rights
- 3) credential problems
- 4) dismissal
- 5) demotion
- 6) salary policy disputes
- 7) suspension
- 8) retirement

We do not provide legal assistance for criminal charges or civil actions.

(Revised: February 2015 Board of Directors)

12.10.2 Criteria. To qualify for legal assistance, the member's problem must also meet the following criteria:

12.10.2.1 Due Process. The primary goal of the ACSA legal assistance program is to assure that each member is accorded due process of law in connection with the employment-related problem set forth above. The first criterion, therefore, is the extent to which the member has been accorded due process.

12.10.2.2 Professional Significance. A secondary and related criterion is professional significance. That is, the extent to which the member's problem significantly affects the profession as a whole either as a matter of legal precedent or otherwise.

12.10.2.3 Appropriateness of the Legal Remedy. A third criterion is the appropriateness of the legal remedy in the circumstances of the case.

12.10.2.4 Member's Conduct. The member shall demonstrate that he/she has acted in accordance with professionally acceptable behavior and ethics.

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- 12.10.2.5 Eligibility. The applicant must have been a regular ACSA member in good standing for six months at the time his/her problem arose.

(Revised: February 2014 Board of Directors)