



ASPTEA FAIR REPRESENTATION AND LEGAL POLICY

Revised – June 6, 2006

General

To meet its duty of fair representation, the Administrative, Supervisory, Professional & Technical Employees Association (ASPTEA) Board of Directors has adopted the following policy:

As the duly elected and authorized employee association for City of Phoenix Administrative, Supervisory, Professional, and Technical employees (Unit 7), ASPTEA has the responsibility of representing members in employment matters.

In addition, ASPTEA members have access to the Association's legal resources provided by the Law Offices of Michael Napier, P.C., for other legal matters specifically outlined in this policy.

Any fees and all related expenses for legal representation on behalf of a member, which has been approved by the Representation Committee and/or the Board of Directors shall be borne by the Association. Non-members will not be given free legal representation.

Representation Committee

In accordance with the ASPTEA Constitution and By-Laws, the President shall appoint a standing Representation Committee that shall consist of the President, Vice President and Chief Representative.

A Representation Committee member will be assigned to assist on the member's behalf during periods of investigation or legal representation and will work closely with the organization's legal counsel. A member who accepts legal representation consents to disclosure of communication occurring between the attorney, the member, and the Association's Board of Directors.

The Representation Committee shall meet on a weekly basis to review member representation matters and determine a course of appropriate action. The committee will make monthly reports to the Board of Directors and at all general membership meetings.

Truthfulness

Complete and candid disclosure of all facts relating to any matter being grieved or appealed on a member's behalf by the Association is required. The failure to be completely truthful or the discovery of a member's untruthfulness to Association representatives, officers, or agents will be sufficient cause to immediately cease

ASPTEA's involvement in the case. The members' grievance or appeal will be deemed to have no merit and ASPTEA's involvement in the matter shall terminate. If a question of truthfulness arises, a Representation Committee meeting shall be called to determine whether representation will continue.

Non-Members

Employees who are not dues-paying ASPTEA members during an incident or departmental investigation, who subsequently join ASPTEA and request representation related to the incident or matter which is currently or has been investigated, will not be entitled to free legal representation, nor will they be represented by a Representation Committee member at Civil Service hearings, Grievance Committee (except violations of the written agreement/contract) or other City processes.

With the approval of the Representation Committee, non-members may be referred to the ASPTEA attorney, however, a \$5,000 retainer or other sum specified by the attorneys will be required. The purpose of this policy is to prevent abuse of membership privileges by employees who join ASPTEA to obtain grievance or legal representation without previous financial support (dues) to the organization.

Notification Procedure

Any active member wishing to obtain representation, grievance or legal assistance from the Association's legal counsel, shall notify ASPTEA office directly to establish eligibility and obtain approval. The Chief Representative, President or Vice President will assist eligible members with their incident.

Members with pending discipline matters shall not contact the Association's Attorney without prior authorization or approval from ASPTEA. Violation of this policy shall hold harmless the Association from any financial obligations or responsibility in relationship to the legal matter.

Continuation of Dues

Members who have obtained authorized representation for a grievance, appeal, or other legal action shall keep their dues current. Hardship cases may be brought before the Board of Directors which may elect to waive dues pending the disposition of the representation. The Board may require complete repayment of waived dues. This action shall be coordinated through the Representation Chairperson and Treasurer.

Grievances (AR 2.61)

An AR 2.61 grievance is a complaint by an employee concerning interpretation or application of rules and regulations governing personnel practices, departmental policies and work rules, working conditions, the ASPTEA written agreement, meet and discuss ordinance or alleged improper or unfair treatment of an employee, in which the complaint has not been resolved satisfactorily in an informal manner between the employee and his or her immediate supervisor.

It shall be the responsibility of the grievant to adhere to all time limits imposed under any grievance or appeal procedure. The initial time limit for filing an AR 2.61 grievance is 15 days from the time an employee becomes aware an infraction has occurred.

If, in the decision of the Representation Committee, a grievance has merit and seeks a

proper remedy, the Association shall undertake representation of a member who requests assistance through the Association. The Association will represent all Unit 7 employees in enforcing the ASPTEA written agreement (contract). The Association may consult with its legal staff for guidance in grievance handling.

Civil Service Appeals

When an ASPTEA member receives a suspension, demotion or dismissal, upon the member's request, the Association will provide legal representation, subject to the procedures and conditions outlined below:

It is the responsibility of the member to contact the Association prior to or immediately after receiving a Discipline Notice. The Association shall not be obligated to represent a member who does not do so. The Representation Committee will schedule a meeting to hear a member's request for legal assistance. It is the member's responsibility to comply with all appeal time limits imposed under the City of Phoenix Personnel Rules. Civil Service appeals must be filed within 14 calendar days after receiving a Notice of Discipline. The Association or our attorneys will prepare Civil Service appeals on behalf of members.

The Representation Committee will examine the member's prior service record, culpability, actions or inactions, potential for performance improvement or rehabilitation, the member's candor or truthfulness with the Representation Committee, the accuracy of the investigation and discipline or separation notice, comparisons with similar cases, and the excessiveness of the discipline to determine whether or not the appeal has merit. The Committee may hear from any source it deems appropriate.

Should the Representation Committee deny legal representation, the member will be immediately advised of the reasons for the denial. If the member so desires, they will receive assistance in filing a letter of appeal with the Civil Service Board and guidance on how to appeal the Committee decision to ASPTEA Board of Directors.

Upon denial of legal representation, the member may appeal the Representation Committee's decision at the next regularly scheduled Board meeting. The member may appear before the Board and present evidence. After considering the Committee's decision and any new evidence, the Board may alter the decision of the Committee and decide to underwrite representation or it may decide to let the Committee's decision stand. The Board's decision is final.

In extraordinary circumstances, the Board of Directors may appeal cases in accordance with this policy to County, State or Federal Court as a Special Action.

Civil Action

ASPTTEA may, with approval of the Board of Directors, furnish an attorney to a member to file a civil suit, including a declaratory action to obtain court interpretation of statutes, when the outcome could potentially benefit the membership. When appropriate, the Board of Directors may support a member in a class action lawsuit, if the litigated issue affects the Association as a whole.

Damages awarded by a judgment shall go to the individual members, as appropriate. Attorney fees, when awarded, shall go to the Association's legal counsel. Litigation costs, when awarded, shall be used to reimburse the Association for its expenses related to the litigation.

Criminal Litigation

With the approval of the Representation Committee, ASPTEA may provide legal consultation to a member during a preliminary criminal investigation. The Association is not obligated to represent members in criminal defense matters.

Additional Coverage

Any additional legal coverage may be provided by ASPTEA if deemed appropriate by the Board of Directors, or, when an emergency exists, by the President, after consultation with the Association's legal advisor.

Exceptions

Where extraordinary circumstances warrant it, the Board of Directors may approve exceptions to any part of this legal policy on a case-by-case, non-precedent setting basis.

Policy Distribution

This policy shall be made available to current members and to every new member.

Law Offices of Michael Napier P.C.

Michael Napier has been representing ASPTEA members since 1978. His firm is well known for their expertise in Labor Law and City of Phoenix employment.

Additional Legal Benefits

The following additional legal services are provided to ASPTEA members only:

Administrative Hearings (Civil Service)	Requires ASPTEA Board Approval
Last Will and Testament Preparation	Free for Member and Spouse
Personal Injury Recovery	25% Contingency Fee for Member
Property Damage Recovery	Five free hours of Representation
Estate Representation	Free probate of estate of any member who dies in line of duty or any accidental death
Other Legal Services discounted to \$125/hr	For matters the firm would normally accept
100% Motor Vehicle Representation	Unlimited defense on moving violations on the job for member (except DUI and drug matters)
Class Action and Employment Litigation	At the direction of the ASPTEA Board
Office Visits and Phone Consultation	Free for Member and Spouse