**CSUEU Board Agenda Item**



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| **Board Agenda Item:** | B&P Nov/2016/\_\_ |
| **Action Item:** | November 19, 2016 |
| **Subject:** | 904.00 DENIAL OF REPRESENTATION |
| **Source and/or Proponent:** | CSUEU Policy File Committee |
| **Presentation By:** | Steve Mottaz, CSUEU Policy File Chair |
| **Assigned To:** | Nancy Yamada, CSUEU Staff |
| **Recommended Action:**That the CSUEU Board of Directors adopt the attached amendments to CSUEU Policy File Division 904.00 DENIAL OF REPRESENTATION. |
| **Background:** This proposed amendment is not a substantive change, but recommended for clarification purposes. |
| **Estimated Cost/Savings:**  | None. |
| **Funding Source:** | N/A |
| **Board Action:** | ❑ Adopt ❑ Reject ❑ Refer |

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DIVISION 9: REPRESENTATION

901.00 SCOPE OF REPRESENTATION

* + - 1. Representation is the means by which the CSUEU makes its resources available to ensure a fair and full review of any infringement of CSU employees’ rights and to obtain for them the full realization of any and all benefits to which they may be entitled by reason of being a CSU employee.
			2. Representation in court is not automatically afforded but shall be provided only when the CSUEU Representation Committee determines the matter has merit and approves such representation pursuant to 902 (c).

902.00 RIGHTS AND LIMITATIONS

(a) The CSUEU shall provide representation, within the limitations set forth in this Policy File, to employees based upon their status as follows:

* + - * 1. Members and fee payers within a unit for which the CSUEU is the bargaining agent, have the full right to good faith representation in any collective bargaining related matter by the CSUEU’s designated representative, without charge;
				2. Members of affiliate organizations have such rights to representation as set forth in their affiliation agreement with the CSUEU as permitted by law;
				3. Employees who are not members within a unit for which the CSUEU is the bargaining agent shall be required to pay a reasonable fee for individual representation outside of the duty of fair representation under HEERA;
				4. Active CSUEU members who are in units for which the CSUEU is not the bargaining agent shall be entitled to representation to the extent authorized by law.

#### (b) Representation shall not be provided to members beyond the scope of the CSUEU’s duty of fair representation under HEERA in matters resulting from events which occurred prior to the date of their application for membership in the CSUEU unless required by law.

* + - 1. The CSUEU has the right to make fair and impartial decisions as to the merits of a particular request for representation, including but not limited to, decisions to:
				1. Undertake representation;
				2. Discontinue representation at any time;
				3. Recommend that a matter be settled prior to exhaustion of the applicable administrative procedures;
				4. Refuse to continue representation in the event that its recommendation is not satisfactory to the employee;
				5. Seek judicial relief and redress for a particular matter in addition to or in lieu of representation through any or all of the available administrative procedures; and
				6. Discontinue its representation in judicial proceedings at any point prior to their exhaustion.

902.01 Types of Representation

Representation consists of either services or indemnity, or both.

(a) Services consist of advice, counsel and assistance rendered by competent and qualified persons, and may include investigation, negotiation and settlement as well as appearances before administrative, judicial or legislative tribunals. These services will be provided primarily by CSUEU Certified Stewards, then secondarily by Labor Relations Representatives, and finally, when deemed appropriate, by CSEA legal staff.

(b) Indemnity consists of money payment in reimbursement of either a portion or all of actual and necessary representation costs. The CSUEU shall not indemnify anyone for costs or expenses incurred without prior authorization of the Vice President for Finance.

* + 1. 902.02 Requests for Formal Representation

At the time of the request for formal representation, the employee shall be given a form listing the employee’s rights and responsibilities. Continued representation may be contingent upon the employee’s good faith effort to comply with these responsibilities from the inception through the conclusion of the representation process. This statement shall include a statement of the employee’s appeal rights. These forms shall be available at www.csueu.org. CSUEU shall maintain a record of all requests for representation.

903.00 NONMEMBER REPRESENTATION

The Non-Member Representation Policy shall be distributed to all Chapters and staff, shall be presented to any non-member requesting representation and shall be available at www.csueu.org.

* + 1. 903.01 Representation for Fee Payers

Representation for fee payers shall be as required by the provisions of HEERA. Fair share fee payers shall only be entitled to representation on matters covered by an MOU entered into between the CSUEU and the CSU Board of Trustees. (BD 38/08/4)

904.00 DENIAL OF REPRESENTATION

* + - 1. It is the CSUEU’s general policy, in addition to the rights and responsibilities in 902.00 above, to deny representation on the following grounds: (BD Nov/2016/\_\_)
				1. Unapproved Actions: The CSUEU shall not provide representation with respect to disciplinary action arising from unapproved job actions;
				2. Best Interests of the CSUEU: The CSUEU shall not provide representation that would conflict with the best interests of the CSUEU or require the CSUEU or its staff to take a position in any manner inconsistent with established positions or policies of the CSUEU;
				3. Conflict of Interest: The CSUEU shall not provide representation services that would result in any conflict of interest for the CSUEU staff. Indemnity for representation costs may be authorized if prior approval is obtained from the Vice President for Finance
				4. Lack of Merit: The CSUEU may deny representation in matters that appear to lack factual or legal merit;
				5. Lack of Cooperation: CSUEU may deny representation if the individual fails to cooperate in the matter; and
				6. Other Representation: The CSUEU may deny representation when it determines that an individual has another representative in the same matter.
			2. Denials of representation shall be in writing and delivered with proof of service to the employee in a timely manner and shall not compromise the employee’s right to continuance of his/her case or to appeal.