

## Norwegian Association of Researchers (Forskerforbundet): Guidelines for legal assistance to individual members

Revised by the NAR's Executive Board on 22 October 2014

### **Cases:**

- § 1 The Norwegian Association of Researchers (NAR) provides legal assistance in all matters relating to its members' salary and employment terms, respective to their primary job or any secondary job with direct relevance to their primary employment relationship, eg part-time scientific positions. Student members are offered advice and guidance. Legal assistance is not provided to retired members.
- § 2 The NAR may extend the assistance provided to also cover matters indirectly associated with the employment relationship.
- § 3 The assistance shall safeguard the members' interests in their capacity as employees.
- § 4 The NAR does not provide legal assistance with a view to resolving problems that arose (came to a head) before the date on which the individual became a member. Legal assistance is, under no circumstances, provided before membership has lasted for 3 months (qualifying period). Upon request, the NAR's Working Committee may waive the rule relating to the qualifying period. The provision covering the qualifying period does not apply to issues relating to temporary employment.
- § 5 The member must owe no membership fees to the NAR. Should membership fees not be paid, any assistance already initiated will come to an end.

### **Procedure:**

- § 6 As a rule, all cases and questions shall be presented to a local union representative before NAR Head Office is involved in the matter. Only in those cases where there is no local union representative or where the member has been unable to contact the local union representative, may the member contact NAR Head Office direct.
- § 7 As far as possible, the Central Office will seek to assist the local union representative to achieve an acceptable solution, unless the immediate intervention of the Central Office is obviously needed.
- § 8 In consultation with the union representative, the Central Office will assess when its intervention in a case is expedient.
- § 9 The NAR does not provide legal assistance to members who are at the same time represented by another advisor/attorney. If the NAR is to assume responsibility for a case, the member must confirm in writing that the case has been turned over to the NAR.

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- § 10 The NAR does not generally assume responsibility for cases that have been initiated by external advisors/attorneys. The NAR will not reimburse any expenses with respect to attorneys or other advisors which a member of the NAR incurs on his own account in connection with the case.
- § 11 In connection with cases relating to termination of employment or other personnel matters in which deadlines are short and where the member or union representative has been unable to contact the Central Office in time, the NAR may, upon request and on the basis of a specific assessment, cover such expenses as were incurred to take the necessary first steps in the case.

### ***Scope of the assistance:***

- § 12 As a rule, the NAR provides legal assistance from the moment when the Central Office is contacted until a negotiated settlement is arrived at.
- § 13 If a negotiated settlement is not arrived at, the NAR may, in consultation with the member, bring the case before one of the ombudsmen, another dispute resolution body or the ordinary courts of law. The NAR provides legal counsel in the courts of first and, if necessary, second instance. Cases are referred to the courts when the NAR considers the case to be litigable.
- § 14 Where a member is entitled to assistance, the General Secretary may outsource the case to external attorneys and provide financial assistance to the member concerned. Members receiving such financial assistance instruct an attorney of their own choice.

### ***Decision-making authority:***

- § 15 The General Secretary determines which in-house or external counsel/law firm shall assist the member in connection with the case. This does not apply where the member receives financial support, cf. § 14(2)(3).
- § 16 If the member does not follow the advice and recommendations of counsel/the NAR, the NAR reserves the right to withdraw from the case and halt any further financial support. The same applies if the member provides incorrect or incomplete information about the case. Before any such decision is taken, the case shall be discussed with the member and the member's legal counsel. Any such decision may be appealed to the Working Committee no later than two weeks after notice of the decision has been received. In connection with any cessation of assistance on this basis, the NAR undertakes to do what is necessary to prevent the member from suffering any loss of entitlement.
- § 17 If a member, or someone representing a member, acts in a threatening manner and/or issues threats against the NAR's elected representatives or employees, the NAR's General Secretary may decide to halt the provision of legal assistance to the member with immediate effect. The decision to halt further assistance may be appealed to the Working Committee no later than two weeks after notice of the decision has been received.

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§ 18 The member can at any time renounce the NAR's assistance, with subsequent cessation of financial support. Notice of any such decision must be given in writing.

### ***Decision-making authority in connection with litigation before the courts:***

§ 19 The General Secretary is authorised to decide whether a case shall be brought before a court of first instance. Any decision with respect to legal counsel in connection with litigation in a court of second instance shall be taken by the Working Committee. The General Secretary shall prepare a recommendation with respect to all cases forwarded to the Working Committee for consideration.

§ 20 If a member wishes to engage in litigation and the General Secretary declines to open legal proceedings, an explanation for the refusal must be given. The member may appeal the refusal to the Working Committee, which decides whether the case should be outsourced to an external attorney. The deadline for appeals is two weeks from the date on which the member received notice of the decision. The member shall be informed of the deadline for appeal. If the in-house administration of a case means that procedural deadlines cannot be met, the General Secretary may, free of charge, cause legal documents to be drawn up in the member's name and at the member's risk.

### ***Expenses relating to litigation/arbitration:***

§ 21 The NAR meets the expenses when a case is submitted by the association, ie its own legal costs, relevant charges, travel expenses and all costs associated with legal opinions and the testimony of witnesses, experts, etc. The NAR pays any legal costs imposed in a court of first instance. The member must bear the risk of liability for the opponent's legal costs in a court of second instance.

§ 22 In cases involving matters of principle for the NAR, the association may, upon request, guarantee the payment of the opponent's legal costs in a court of second instance as well. The Working Committee assesses whether a case involves matters of principle.

§ 23 In connection with the outsourcing of cases to an external attorney, the Working Committee may set a cap on the NAR's financial commitment. The member and their legal counsel shall be immediately notified of any such decision.

§ 24 Any costs awarded fall proportionately to the original payer of the expenses.

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