**Section 1125.40 Escrow Accounts**

a) Upon service of an objection, the employer shall continue to deduct the fair share fee from the objecting employee's pay, but shall not pay the fee to the exclusive representative, unless the exclusive representative maintains an escrow account in accordance with subsections (b) and (c) and the exclusive representative has so notified the employer. The employer shall transmit the fee to the Board which shall hold the fee in escrow in an account established for that purpose. If the objecting employee has disputed only part of the fee, the employer shall pay the undisputed amount to the exclusive representative and shall transmit the disputed amount to the Board. The employer shall continue to transmit all such fees to the Board until further order of the Board.

b) An exclusive representative may maintain an escrow account for the purpose of holding fair share fees to which employees have objected. If an exclusive representative maintains such an account, the employer shall continue to transmit an objecting employee's fair share fee to the exclusive representative. Upon service of an objection, the exclusive representative shall deposit the objecting employee's fair share fee into the escrow account which it maintains. If the objecting employee has disputed only part of the fee, the exclusive representative shall pay the disputed amount into the escrow account and may retain the undisputed amount. The exclusive representative shall continue to pay into the escrow account all fair share fees or the disputed portion of the fees until further order of the Board.

c) An escrow account maintained by an exclusive representative shall meet the following standards:

1) The account shall be maintained in a federally insured financial institution.

2) The account shall earn interest of at least the rate provided by commercial banks for regular passbook savings accounts.

3) If the account combines the fair share fees of more than one objector, separate records must be kept of each objector's fee, prorating the interest earned on the account.

4) The escrow account may contain the fees of objecting employees in different bargaining units.

5) Any charges resulting from a financial institution for the cost of maintaining an escrow account shall be borne by the exclusive representative.

d) Within 45 days after service of the objection, the exclusive representative may file a motion to reduce the amount of the escrow. The motion shall be filed with the Executive Director. The exclusive representative shall attach to the motion any documents it wishes to have considered in support of this motion. The motion and supporting documents shall be served on the objecting employee and the employer in accordance with 80 Ill. Adm. Code 1100.20(d). The exclusive representative shall have the burden of demonstrating that its proposed reduction in the amount of the escrow will clearly not prejudice the constitutional and statutory rights of the objecting employee.

e) The objecting employee shall have 15 days computed in accordance with 80 Ill. Adm. Code 1100.30 to respond. The response shall be served on the exclusive representative and the employer in accordance with 80 Ill. Adm. Code 1100.20(d).

f) If the Executive Director determines that reduction of the amount of the escrow will clearly not prejudice the constitutional and statutory rights of the objecting employee, he shall order the escrow reduced to an amount necessary to protect the rights of the parties in a written decision containing his reasons. The order shall be served on the objecting employee, the exclusive representative, and the employer. Thereafter, the employer shall transmit the reduced escrow amount to the Board and the remainder to the exclusive representative, unless the exclusive representative maintains an escrow account in accordance with subsections (b) and (c). If the exclusive representative maintains such an escrow account, the exclusive representative shall pay the reduced escrow amount into the escrow account and may retain the remainder.

g) In making the determination, the Executive Director will consider court decisions interpreting the constitutional and statutory rights of employees, patterns of expenditures by the exclusive representative, prior adjudications involving the exclusive representative, and other relevant factors as substantiated by material submitted by the parties.

h) The Executive Director's decision on the motion may be appealed to the Board. Notice of appeal, together with any supporting briefs, shall be filed no later than 15 days after service of the Executive Director's decision. Parties may file briefs in accordance with 80 Ill. Adm. Code 1105. Subpart B. The Board shall review the Executive Director's decision to determine whether it is in accordance with the Act, this Part, and the evidence submitted by the parties.

(Source: Amended at 14 Ill. Reg. 2873, effective February 9, 1990)