



Central California Upbeat

The Official Newsletter of the Professional Musicians of Central California AFM Local 12

Local 12 General Membership Meeting and New Member Orientation

Monday, June 12th, 7PM on Zoom

<https://csus.zoom.us/j/3453315981>

Pay It Forward

The Local 12 Executive Board understands that members often work seasonally, with fewer orchestra gigs in the summer. For members who are frequent substitutes in our CBA orchestras, and who pay their dues quarterly rather than annually, it may make sense to resign in good standing for the 3rd quarter and rejoin in the fall when the work returns.

Our bylaws require that a member must be in good standing (dues paid through the end of the current quarter) to resign in good standing.

That means:

- Members may resign in good standing in the first month of any quarter, with resignation effective the end of the previous quarter, no additional dues
- In the second month of any quarter, members will have to pay the current quarter dues in order to resign in good standing
- In the third month of any quarter, members will have to pay the current quarter dues plus the \$5 late fee to resign in good standing
- In any case, a member who resigns in good standing can rejoin anytime within 18 months of their resignation by paying a \$5 reinstatement fee (no Local initiation fee)

Contact simon@afmlocal12.com if any questions

Congratulations to Our Long-time Members of
Local 12 and the Sacramento Philharmonic and Opera

Steve Comber

Leo Gravin

On Their Retirements from SPO this year

All the Best!

The Music Performance Trust Fund—Opportunities for Local 12 Members!

By Geoff Roach and Gail Edwards, Local 12 Executive Board Members

In this era of downloads, streaming, and other methods of delivering music, the Music Performance Trust Fund (MPTF) is a source of funding for live concerts. In this article, we will discuss what MPTF is and how it works. You will also learn what you need to do to access MPTF funds.

MPTF was established in 1948 as a nonprofit independent public service organization whose mission includes contributing to the public knowledge and appreciation of music, as well as making music a part of every child's life experience. MPTF evolved from a landmark collective bargaining agreement between the American Federation of Musicians and the major recording companies of the 1940s.

Today, every time someone buys a CD, downloads music, or streams a song, a small fraction of what you pay goes into MPTF. More specifically, MPTF is funded via a royalty stream from the signatory record labels, led by the three major labels, Sony Music Entertainment, Universal Music Group, and the Warner Music Group. The recording companies pay a royalty from the sale of sound recordings to the Fund. These funds are supplemented by co-sponsoring organizations, and managed by a trustee, who is independent of both the recording industry and the AFM.

Local 12 manages the MPTF-funded activities in our territory. The functions we perform implement the steps necessary to obtain money for concerts. A proposal that answers basic questions about the proposed concert is submitted to MPTF in New York City. Those questions include date, venue, audience, musicians, type of music, and budget. Budget is based on Local 12 scale. From that proposal, MPTF awards Local 12 a grant for the musicians. Once the concert is done, Local 12 files a completed report and receives the funds from MPTF. Local 12 then processes the payroll to pay each individual musician directly.

The Local 12 funding allocated from MPTF for the fiscal year May 1, 2023 to April 30, 2024 is \$17,202. MPTF has guidelines on how the funding may be spent:

65% can be used on 100% funded programs:

- Black History Month
- Jazz Appreciation Month (April)
- Juneteenth
- Live Streams
- Music Education
- 17.5% must be used on community events with a matching Sponsor (50/50)
- 17.5% Can be used on Community events funded at 100%.

The major challenge concerning MPTF that we face in Local 12 is finding co-sponsors, so the 100% funding projects are great opportunities.

Below you will find the steps to access MPTF funds.

1. Have an idea for a performance with both a venue and ensemble in mind.
2. The concert must be free and open to all.
3. Secure a potential co-sponsor or focus on one of the 100% project categories.
4. Contact local MPTF manager Geoff Roach (cool@octobop.com) to apply.
5. Work with Geoff to complete the paperwork.
6. Wait to hear if you are approved. Approval usually takes a few weeks.
7. Do the concert.
8. Take great pictures at the concert and send to Local 12.
9. Submit each musician's paperwork (W-4 and I-9) to Local 12. Musicians receive payment in about a month.

The musicians **do not** need to be members of AFM. AFM locals administer the program, but AFM membership is not a requirement.

Let's create some MPTF concerts and play some live music!

Attention Union Musicians:

Do not accept work from *Listeso Music Group*, a booking agency specializing in String Quartet gigs. They hire for less than Local scales, and there have been reports of late cancellations and payment problems. **Contact Local 12 if you are contacted by this agency.**

In Memorium

Our long-time Local 12 member Elizabeth Kidwell passed away recently. She was a member of the Modesto Symphony for nearly fifty years, and a visible presence in our music community. She will be missed. Local 12 sends our thoughts and prayers to her family, friends and musician colleagues.

The Fresno Community Chorus (and the Challenges of Organizing Small Employers)

By Tom Derthick, Local 12 President

Most of our symphonic members are well aware of our larger CBA partners: the Sacramento Philharmonic and Opera, the Fresno Philharmonic, and the Modesto Symphony. We also have a large theater CBA with Broadway Sacramento.

These employers each have annual budgets over \$1 million (Broadway Sacramento's is in the tens of millions), and as such are under the jurisdiction of the National Labor Relations Act. Local 12 can use the NLRA to file charges should any employer refuse to bargain, or bargain in bad faith (a topic for a future article), as a means of applying pressure to employers should they not deal fairly with their musician employees.

Employers whose annual budget falls below \$1 million are not under the jurisdiction of the NLRA. Despite the fact that labor law is supposed to apply to every employer, there is no federal body such as the National Labor Relations Board (NLRB) to whom we can appeal, and the state labor agencies are much less able to assist us to enforce fair dealing.

Likewise, Local 12 cannot force smaller employers to recognize the Local as bargaining agent for musicians after a successful organizing campaign, without the NLRB to oversee official union recognition. Because of this, smaller employers in our Local (I'm sure you are aware of symphonies and music festivals you play for with whom Local 12 has no contract) are not required by law to recognize Local 12 as the bargaining agent for musician members.

Recently, Local 12's relationship with the Fresno Community Chorus (FCC), our smallest CBA in budget size, has fallen apart. FCC was unable to produce concerts under their CBA with Local 12 for much of the pandemic (choruses being a potential super-spreader). That CBA expired in 2021, and Local 12 has attempted to bargain a new agreement with FCC ever since.

We met with their Board President, Administrator and Artistic Director a total of four times over two years. Most often FCC would not return emails or phone calls, or simply not be available to meet or bargain. In the meantime, FCC began producing concerts again in the spring of 2022, without paying work dues or AFM pension in violation of the previous agreement. (FCC's tax records show that they have ample cash on hand, around double their annual expenditures for each season, so while being a small organization, they are not poor.)

FCC has stated that they feel no obligation to bargain with Local 12. They feel that the expiration of the past CBA (which FCC refuses to call a CBA) has freed them from any obligation to union employment, to pension, or to following federal and state labor law.

The main issues of contention are the AFM pension (something my predecessor Larry Gardner fought long and hard to get in this agreement), and FCC's refusal to do payroll withholding under CA Labor Law as amended by AB 5 and 2257, which specify that musicians employed by

businesses whose primary purpose is producing music performances must do payroll withholding. Otherwise, there are no outstanding issues in the contract that would prevent an agreement from being made immediately.

Additionally, FCC has by refusing to meet to bargain, by refusing to bargain in good faith, by direct-dealing with musicians outside of the bargaining process, and by breaking their signed agreement with the pension fund, committed multiple Unfair Labor Practices (ULP). Were FCC an employer the size of SPO, FPO or MSO, ULP charges would be filed, and the NLRB would intervene to pressure FCC to bargain. Because FCC has a budget below the threshold, there is no federal agency to pressure them to follow the law.

Local 12's counsel, David Rosenfeld, has spoken with the FCC President by phone. FCC requested, and David has provided separate letters for FCC and their counsel to review: one outlining their obligation under AB 2257, and another refuting FCC's claim that the expired CBA and their obligation to the Pension agreement are no longer in force. Local 12 has offered to have the AB 2257 applicability question decided by the State Labor Commissioner.

FCC's counsel promised to make contact with Rosenfeld the week of April 10th. As was the case with FCC's Board, no contact came. Again, FCC refused to bargain in good faith to reach an agreement for their April concerts. (In mid-May, FCC's counsel has sent a one-paragraph email to Rosenfeld denying all of Local 12's lawful assertions, and asking to roll over the previous agreement, something that FCC has clearly stated it does not want to do.)

For now, Local 12 must wait for FCC's counsel to bargain in good faith with our counsel. Because the musicians performing with FCC have long-standing personal relationships with the FCC artistic director, Local 12 has chosen not to seek a labor dispute, nor to have FCC placed on the Unfair List, which would bar Union members from working with them.

Local 12 has reported all of this to the AFM-EPF Pension Fund, which can now seek back pension and pension liability payments from FCC since they are in violation of the Pension Agreement. Local 12 will have no say in the Pension Fund's actions.

A great deal of time has been spent by Local 12 Board Members Cynthia Stuart and Laura Porter, by me, and by Mr. Rosenfeld, to no avail. The support of our musician members has been greatly appreciated, but it has done nothing to change the views of the employer.

Collective bargaining works. Our agreements with the other larger employers listed above, as well as with the Sacramento Choral Society and Orchestra (an organization very similar to FCC), are proof. These groups pay well, have due process, and pay pension. This process can work, if all employers—even smaller ones—are invested in their musicians.

Central California Upbeat

The Official Newsletter of the
Professional Musicians of Central California
American Federation of Musicians, Local 12
Established 1896

Mailing Address:

5716 Folsom Blvd. #104
Sacramento, CA 95819

President

Tom Derthick

Treasurer

Maryll Goldsmith

Secretary

Simon Holland

Board of Directors

Geoff Roach

Gail Edwards

Laura Porter

Cynthia Stuart

Julian Dixon

Trustee

Mark Tulga

Co-editors/Central CA Central Upbeat

Simon Holland

Tom Derthick

•

Please notify the office of any change
of address or phone.

•

Opinions expressed by contributing writers
are their own and not necessarily those of
AFM Local 12.

•

Membership Updates

Scheduled Meetings

(Unless announced otherwise)

General Membership

Quarterly online

Executive Board

Monthly online, 10:30 a.m. on the second
Thursday of each month

•^[1]_[SEP]

Meetings are open, and members are invited
to attend.

Members wishing to formally

appear on the agenda must

submit a request in writing^[1]_[SEP]

at least 24 hours prior to the meeting.

•^[1]_[SEP]

Any notice appearing herein shall be
considered to be an official notice^[1]_[SEP]
to the membership.

Suspension Policy

Any members whose Regular or Life
Membership Dues remain unpaid three months
from the due date shall stand automatically
suspended from membership and shall be
required to pay a reinstatement fee of five
dollars, plus back standing dues in order to
resume membership in good standing.

Members whose dues remain unpaid six
months from the due date shall stand
automatically expelled and be ineligible for
Local 12's benefits or referrals and shall be
required to pay a reinstatement fee of twenty-
five dollars, plus back standing dues in order to
resume membership in good standing.

If off the role book for five years or longer, a
Federal Initiation Fee of sixty-five dollars is also
due.

To Resign in Good Standing

If dues are current a member may resign
in good standing by written request
delivered by mail, FAX or e-mail.

A telephone message is not acceptable.

Services and Benefits

- Recording Industries Music Fund
- Pension Fund
- Payroll Service
- Legal Contracts
- Instrument & Equipment Insurance
- Emergency Traveling Assistance
Program: 1(800) ROAD-GIG
- Union Privilege
- Credit Union Info
- Group Health Insurance (Self Pay)
- Dental Insurance (Self Pay)
- Wage Scales
- National Ear Care Plan
- Referral Service
- Petrillo Fund
- Electronic Media Services
- Collective Bargaining
- Legislative Representation
- Recording and Multimedia
Protection

It's a great time to be a member!

Member Services

(916) 453-2944

Referral Service

(916) 453-2944

www.afmlocal12.com

Office Hours

By appointment:

Derthick@afmlocal12.com

Simon@afmlocal12.com

Maryll@afmlocal12.com

Membership Dues

<u>Category</u>	<u>Quarterly</u>	<u>Yearly</u>
Regular	50.00	200.00
Life	25.00	100.00
Inactive Life	19.25	77.00