



Are Government Unions Adequately Informing Workers of Their Rights?

Published on *Show-Me Institute* (<https://showmeinstitute.org>)



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Following [the Supreme Court's 2018 ruling](#) in *Janus v. American Federation of State, County, and Municipal Employees (AFSCME)*, there was renewed interest nationwide—by workers and by policymakers—to reconsider the relationship between government unions and governments themselves. Trey Kovacs over at the Competitive Enterprise Institute has done yeoman's work in this area, and as he noted earlier this summer, the consequences of the *Janus* case were so far-reaching that many labor unions [were hemorrhaging tens of thousands of fee payers in the case's immediate aftermath](#) :

In the aftermath of the decision, government unions were unable to convince many non-members to become full-fledged members and pay dues. As I discussed in a previous post, union financial reports submitted to the Department of Labor show the National Education Association lost the 88,000 non-member agency fee payers it had in 2017. And the Americans Federation of State, County, and Municipal Employees union lost 110,000 agency fee payers. The financial reporting of another large public-sector union, the American Federation of Teachers, does not reflect the impact of *Janus* because its reporting period ended in the same month as the decision. However, a new report from the Freedom Foundation states that “union spokespeople indicate the union lost nearly all 85,000 agency fee-payers it had at the time of the decision.”

As Kovacs notes later in the piece, the *Janus* decision doesn't only affect non-member fee

payers, who in many states were the primary beneficiaries of the case, but also union members themselves. [As the ruling notes](#), “Unless employees clearly and affirmatively consent before any money is taken from them, this standard [for waiving one’s First Amendment rights] cannot be met.”

But are union members aware of these rights? Kovacs persuasively suggest that the answer is no, and that state law can still act as a barrier to securing these rights.

Prior to the Janus decision, workers who wished to opt-out of union membership were restricted by what are known as window periods. For example, in Michigan, many public employees could only leave their union once a year during a short period of time in August. Other window periods only permitted members to leave the union for a brief time period around the anniversary of their hiring.

Despite the text of the decision that allows workers to resign union membership nearly at any time, labor unions are still blocking workers who want to leave by enforcing these invalid window periods. In a recent case, *Hendrickson v. AFSCME*, New Mexico public employee Brett Hendrickson, represented by the Liberty Justice Center, was prohibited from exercising his Janus rights to resign from union membership. Hendrickson, a quality control specialist for the New Mexico Human Services Department, attempted to leave AFSCME Council 18 and stop dues from being deducted from his paycheck, but was told he could only opt-out during a narrow window period. This is just one of many examples of unions coercing worker to continue paying dues and undermining their First amendment rights.

To what extent Missouri government workers are having their rights curtailed is the subject of rigorous debate. For instance, a court injunction against House Bill (HB) 1413, which reformed much of Missouri’s labor law framework, has created uncertainty as to what the law is on basic issues like union membership and representation. Also, collective bargaining agreements in the state were (to be generous) lightly overseen by the state even before HB 1413 became law, [meaning that violations of workers’ rights could be ongoing](#) —and hardly anyone would know about it. Fortunately, Missouri did not technically allow for “fair share fees” of the sort that *Janus* put an end to nationwide, so many Missouri workers had at least incidental knowledge of their labor rights in the Show-Me State. Unfortunately, that isn’t always the case.

The better educated workers are about their rights, the better off they will be. Especially in this post-*Janus* legal environment, that educational process is more important than ever.

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[3] <https://cei.org/blog/post-janus-unions-continue-undermining-public-workers-first-amendment-rights>

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