

The Office of Attorney General George Jepsen



STATE OF CONNECTICUT ATTORNEY GENERAL GEORGE JEPSEN

General Guidance Regarding the Rights and Duties of Public-Sector Employers and Employees in the State of Connecticut after *Janus v. AFSCME Council 31*.

Connecticut has a long and important tradition of supporting the organized labor movement and the fundamental right of workers to organize. Public sector employees play a crucial role in communities across Connecticut. Each day they work hard to ensure public safety, to protect public health, to educate our children, and to provide other critical services to our residents.

The Supreme Court of the United States issued a decision in *Janus v. AFSCME Council 31*, 585 U.S. ____, 138 S. Ct. 2448 (2018) on June 27, 2018. The *Janus* decision overturned decades of well-established law and practice relating to the right of a union to receive the payment of fair share agency fees from public-sector employees who decline union membership. **The only change under *Janus* is that now public employers may not deduct agency fees from a non-member's wages, nor may a union otherwise collect agency fees from a non-member, without the non-member employee's affirmative consent.**

All other rights and obligations of public sector employees and employers under state law remain the same. Public-sector employees retain their statutory rights under Connecticut law to organize, to join unions, and to engage in collective action for mutual aid or protection under Connecticut law. C.G.S. §§ 5-270 *et seq.*; 7-467 *et seq.*

Public-Sector Employee Rights

Under Connecticut's collective bargaining laws post-*Janus*, public-sector employees retain the right to:

- Self-organize;
- To join or assist any employee organization;
- To bargain collectively through representatives of their own choosing on questions of wages, hours and other conditions of employment; and

- To engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. C.G.S. §§ 5-271(a), 7-468(a).

Employees also retain the right to be free from actual interference, restraint or coercion. Id. Namely, employers or their representatives or agents are prohibited from:

- Interfering, restraining or coercing employees in the exercise of their rights guaranteed in either section 7-468 or section 5-271, whichever is applicable;
- Dominating or interfering with the formation, existence or administration of any employee organization;
- Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition or complaint or given any information or testimony under either sections 7-467 to 7-477, inclusive, or under sections 5-270 to 5-280, inclusive, whichever is applicable.
- Refusing to bargain collectively in good faith with an employee organization which has been designated in accordance with applicable state provisions as the exclusive representative of employees in an appropriate unit; and
- Such other acts as delineated in C.G.S. §§ 7-470 or 5-272.

Union Dues and Agency Fees

The *Janus* decision does not impact any agreements between a union and its members to pay union dues, and it does not impact any other bargained for provision contained in a collective bargaining agreement. **The *Janus* decision only impacts the payment of an agency fee from a non-member who declines union membership.** Therefore, existing membership cards or other agreements by union members to pay dues should continue to be honored.

Employees who are non-members and were paying agency fees as of June 27, 2018, however, may choose to become dues paying union members and their dues may be paid through a payroll deduction.

Access to Member Information

Under the Connecticut Freedom of Information Act ("FOIA"), except as otherwise provided by federal law or state statute, all records maintained or kept on file by any public agency shall be public records, subject to disclosure. C.G.S. § 1-210(a). Personnel or medical files and similar files, however, may not be disclosed if the determination is made that disclosure of such documents would constitute an invasion of personal privacy. C.G.S. § 1-210(b).

Some public-sector unions have negotiated for the right to include, or exclude, certain information from personnel files, and/or to prohibit disclosure of certain information under the Connecticut FOIA. For example, Article 9, Section 8, of the collective bargaining agreement for the Connecticut Correction Supervisors Unit (NP-8) prohibits disclosure of bargaining unit employees' personnel file where the request for disclosure is made by an inmate, or made by someone on behalf of the inmate.

Public-Sector employees who believe their rights to join or form a union have been violated may contact the Connecticut State Board of Labor Relations at (860) 263-6860 or visit <https://www.ctdol.state.ct.us/csblr/> (<https://www.ctdol.state.ct.us/csblr/>) for more information.