YOUNG, MINNEY & CORR, LLP

LEGAL ALERT

ALERT TO UNIONIZED CHARTER SCHOOLS:
NEW LANDMARK SUPREME COURT CASE, CALIFORNIA LAWS REQUIRE IMMEDIATE ATTENTION PRIOR TO INTERACTIONS WITH LABOR UNIONS AND EMPLOYEES

The Supreme Court of the United States released its long-awaited decision in *Janus v. AFSCME* on June 27, 2018, holding compulsory "fair share" agency fees that are paid to a union are an unconstitutional infringement of public employees' freedom of speech since such dues are spent on political lobbying and related political speech. This decision has immediate and widespread implications for unionized charter school employers in California.

Prior to *Janus*, the Supreme Court had rejected efforts to free nonmembers from paying any dues to a union.[1] California was one of several states that historically prohibited public school employees from opting out of these fair share fees, even if the employee was not a member of the union. With the release of the *Janus* decision, nonmember employees may no longer be required to pay any portion of member dues. California's compulsory fair share fee law is thus now unconstitutional. Of course, this change will impact current collective bargaining agreement language which tracks the prior (now unlawful) rule.

In anticipation of the *Janus* decision, the California legislature passed SB 866 ostensibly in order to mitigate the most severe impacts of *Janus*. Thus, charter school employers should be extremely cautious in responding to the *Janus* decision to ensure compliance with new statutory limitations on public school employers. For example, recent revisions to California law include the following new limitations:

- It is unlawful to "deter or discourage" membership in a union and brings such claims within the jurisdiction of the Public Employment Relations Board.

- School employers must direct employee requests to cancel or change member deductions to unions.

- School employers must solely rely on the union's representations with respect to the union membership status of all employees.

- School employers must meet and confer with the union prior to the dissemination of any mass communication to employees that concerns the employees' rights to join, support, or otherwise refrain from supporting the union.

- School employers must continue to provide union access to new employee orientations and personal information, and limit disclosure of such information to outside parties.

[1] *Abood v. Detroit Bd. of Education* (1977) 431 U.S. 209.

The *Janus* decision will most immediately impact charter school employers with active or pending collective bargaining agreements. These employers should also immediately check with the union concerning the continued withdrawal of dues for payroll and otherwise be prudent in responding to employee requests to opt-out of the union or inquiries in this regard.

For additional information about the ruling and its impact and for assistance in responding to the *Janus* decision, please contact James Young at jyoung@mycharterlaw.com, Chastin Pierman at cpierman@mycharterlaw.com, or Roger Scott at rscott@mycharterlaw.com, or at 916-646-1400.

Young, Minney & Corr is a leader in providing representation and counseling to charter school employers in all aspects of labor relations, including recognition requests and collective bargaining proceedings. YM&C will continue to offer a full range of labor relations services and will assist charter school employers in handling employee inquiries regarding the *Janus* decision, as well as effectuating the transition of union member employees into nonmember status.

Young, Minney & Corr, LLP's Legal Alerts provide general information about events of current legal importance; they do not constitute legal advice. As the information contained here is necessarily general, its application to a particular set of facts and circumstances may vary. We do not recommend that you act on this information without consulting legal counsel.

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