

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
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Attorney General Advisory:
Affirming Public Sector Labor Rights and Responsibilities After *Janus*

District of Columbia public employees play a critical role in our communities. They work hard every day to ensure public safety, protect public health, educate our children, and to provide other critical services to our residents.

This Advisory responds to the recent ruling of the Supreme Court of the United States in *Janus v. AFSCME Council 31*, 585 U.S. __ (2018). The *Janus* decision overturns decades of settled law and practice regarding the right of public employee unions to require the payment of “fair share” agency fees from public sector employees who decline union membership. Under *Janus*, public employers may not deduct these fees from a non-member’s wages, nor may a union collect agency fees from a non-member without the employee’s affirmative consent. The Supreme Court’s ruling does not, however, change existing public employee rights under District of Columbia law. District employees retain their rights under District law to organize, to join unions, and to engage in collective action for mutual aid or protection. This Advisory reiterates the rights of public sector employees that remain unchanged after *Janus*.

Collective Action Rights

- Under District law, the rights of District public employees to collectively bargain or engage in union activities are unaffected by the decision in *Janus*. District public employees maintain the right to:
 - Organize;
 - Form, join, or assist any labor organization, or to refrain from doing so; and
 - Bargain collectively through representatives of their own choosing. D.C. Official Code § 1-617.06(a).
- Employees also have the right to be free from threats, interference, coercion, or reprisal while exercising their protected rights to engage in such activities. D.C. Official Code § 1-617.04(a).

Dues & Agency Fees

- The *Janus* decision does not impact any agreements between a union and its members to pay union dues, and existing membership cards or other agreements by union members to pay dues should continue to be honored. The opinion only impacts the payment of an agency service fee by individuals who decline union membership.
- Under *Janus*, public employers may not deduct agency fees from a non-union member's wages without the employee's affirmative consent.
- Employees who are nonmembers and paying agency fees as of June 27, 2018 may choose to become a voluntary dues-paying member by contacting the union that serves as the exclusive representative for their bargaining unit and following the instructions given for becoming a voluntary dues paying member.
- Employees may pay dues through a payroll deduction. D.C. Official Code § 1-617.07.

Member Access & Information

- Some District unions have negotiated for the right of their members to use the employer's email systems and its premises to engage in protected concerted activity.
- Under some collective bargaining agreements, District employers are required to provide, in a timely manner, the collective bargaining representative with the names and work contact information of any newly hired employees.
- District employees have a right to keep their personal information protected from public disclosure by their employer. An employee's personal information, such as home address, personal email address, home or mobile telephone numbers, and other contact information is protected from disclosure (with limited exceptions). D.C. Official Code § 2-534(a)(2).

District workers who believe their labor rights have been violated may contact their union representative.

District workers who believe that they have experienced wage theft or other wage and hour violations can contact the Office of the Attorney General's Housing and Community Justice Section by phone at: (202) 442-9854.