



CALIFORNIA ATTORNEY GENERAL XAVIER BECERRA ADVISORY

Affirming Labor Rights and Obligations in Public Workplaces

Attorney General Becerra re-affirms his full support for labor rights in California. Public employees in California (Including teachers, higher education and school employees, first responders, nurses, and city, county and state workers) provide essential services to the state's 40 million residents. The state's collective-bargaining laws help ensure such important conditions of employment as workplace safety, fair wages and hours, and protected leave. They also promote open communication between employers and employees, and the efficient operation of public workplaces across the state.

The Attorney General provides this advisory concerning the rights of public-sector employees following the United States Supreme Court's decision in *Janus v. American Federation of State, County, and Municipal Employees, Council 31 et al.* (AFSCME), 138 S.Ct. 2448 (2018). In *Janus*, the Supreme Court overturned four decades of legal precedent to rule that it is unconstitutional for public-sector unions to collect "agency fees"—also known as "fair-share" fees—from public employees who choose not to join the union. Therefore, a California public-sector employer may no longer automatically deduct a mandatory agency fee from the salary or wages of a non-member public employee who does not affirmatively choose to financially support the union.

In addition, other public-employee rights and public-employer obligations under California law are unchanged by the *Janus* decision. This means that, under California's public-sector collective-bargaining statutes, public employees in California continue to have the right to form, join, and participate in unions to represent them in matters of employer-employee relations. And public-sector employers are prohibited from retaliating or discriminating against employees for exercising their protected rights.

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These rights and obligations are summarized below:¹

Obligations of Public Employers

It remains unlawful for a public-agency employer to:

- Retaliate or discriminate against, or threaten to retaliate or discriminate against, employees for exercising their protected rights to engage in collective action (Gov. Code §§ 3502.1, 3506.5, 3519, 3543.5);
- Interfere with employees' exercise of their protected rights to engage in collective action, or deter or discourage employees or applicants for public-sector jobs from joining a union (Gov. Code §§ 3550, 3506, 3519, 3543.5);
- Refuse to meet and confer in good faith with a union (Gov. Code §§ 3505, 3506.5, 3517, 3519, 3543.5); and
- Interfere with the formation or administration of a union, or support or show preferential treatment for a union (Gov. Code §§ 3506.5, 3543.5, 3519).

Rights of Public Employees

Under California law, public employees retain the rights to:

- Form, join, and participate in the activities of their union for purposes of representation on wages, hours, and other conditions of employment (Gov. Code §§ 3502, 3515, 3543);
- Refrain from joining or participating in the activities of a union, or cancel or change deductions to the union (Gov. Code §§ 3502, 3515, 1153); and
- File an unfair practice charge with the Public Employment Relations Board (Gov. Code §§ 3509, 3514.5).

Payroll Deductions

Dues, initiation fees, and assessments for those public employees who choose to become union members may still be automatically deducted from members' salaries and wages. (Gov. Code §§ 3508.5, 3515.6, 3543.1.)

For information on filing a union grievance concerning wages, hours, and other conditions of employment, consult the applicable Bargaining Unit Contract.

For information on filing an unfair practice charge under the applicable state labor-relations law, visit the Public Employment Relations Board (PERB) website at www.perb.ca.gov.

¹ This summary, and the accompanying statutory references, are not intended to be a comprehensive description of all current California laws that govern, or otherwise pertain to, public-sector labor relations.