



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and college
districts throughout the
state.*

5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclscal.org
www.sclscal.org

General Counsel
Carl D. Corbin

Attorneys
Ellie R. Austin
Monica D. Batanero
Sarah Hirschfeld-Sussman
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Loren W. Soukup
Erin E. Stagg
Frank Zotter, Jr.

Of Counsel
Robert J. Henry
Margaret M. Merchat
Patrick C. Wilson

LEGAL UPDATE

June 20, 2018

To: Superintendents, Member School Districts (K-12)
From: Ellie R. Austin *ERA*
Assistant General Counsel
Subject: Update on State Legislation Impacting Labor Relations in
Anticipation of the Supreme Court decision in *Janus v. AFSCME*
Memo No. 13-2018

We understand that many clients have received emails from the California School Employees Association (“CSEA”) regarding Assembly Bill (“AB”) 1832 and Senate Bill (“SB”) 866. CSEA’s correspondence erroneously states that these measures “passed” and are “effective immediately.”

Both AB 1832 and SB 866 are part of the 2018-19 State budget trailer bill that is under consideration by Governor Jerry Brown.

However, neither bill has been signed by the Governor as of the release of this Legal Update. As such, there is no obligation to take any action at this time.

Both AB 1832 and SB 866 would add or amend language to the Education Code requiring that employee requests to cancel or change authorizations for payroll deductions for employee organizations be processed through the employee organization rather than the employer.

SB 866 would further amend the Education Code to prohibit employers from deterring or discouraging applicants for employment from becoming or remaining union members. The bill would also require the employer to meet and confer with the exclusive representative regarding the content of “mass communications” to employees or applicants relative to their rights to join or support an employee organization, or refrain from doing so. Finally, SB 866 would exempt the date, time, and place of new employee orientations from disclosure under the California Public Records Act.

Neither bill has been signed by the Governor as of the release of this Legal Update; however, both bills are expected to take effect immediately upon



signature. Thus, we recommend that local educational agencies prepare in advance to address the payroll deduction and communications processes provided for in SB 1832 and SB 866.

One anticipated benefit from the expected passage of both measures is the clear, mandatory process by which employee requests to stop payroll deductions must be handled after the anticipated decision in *Janus v. AFSCME*.¹ Further, both AB 1832 and SB 866 contain provisions indemnifying public school employers from relying on information provided by the employee organization relative to employees' payroll deductions.

We will keep you updated as these matters develop.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

© 2018 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute this Legal Update in its entirety for the client's own non-commercial purposes.

¹ In *Janus*, a public sector employee challenged the constitutionality of "agency shop" fees (also called "fair share" or "agency" fees). Employees who opt out of the union and only pay agency shop fees are often called "fee payers." The majority of legal scholars and labor analysts believe the Supreme Court will invalidate fair share fees, finding they violate public employees' First Amendment rights. Labor unions are predicting a drop in revenues after the *Janus* decision, based on employees' new ability to opt out of both union membership and fair share fees.