



## Washington State Senate

**Senator Mark Schoesler**  
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The Honorable Governor Jay Inslee  
Office of the Governor  
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July 9, 2018

Governor Inslee,

I am in receipt of a letter dated July 6, 2018 from the Office of Financial Management in response to my letter addressed specifically to you dated June 28, 2018.

Since the U.S. Supreme Court released the *Janus* decision on June 27, 2018, I have been contacted by frustrated state workers who have attempted unsuccessfully to obtain information from state agencies and union representatives regarding their constitutional rights under the decision.

For example, below is an excerpt from an email received by a member of the Washington Federation of State Employees who had made a very simple, clear request following the *Janus* decision:

*We have received your request to drop your membership in our Union and stop payroll deduction of your union dues. We have attempted to contact you about your request.*

*Union membership is and always has been voluntary. However, giving up your union membership means choosing to not stand with your co-workers and this could have serious consequences in bargaining benefits and pay.*

*We are currently negotiating our next union contract and only with strong membership can we win real raises and protections. Management knows exactly how many members are sticking with our union and it's critical that we demonstrate a strong and united union.*

*In addition, private corporations want to contract out many state services and jobs. In states with weak union membership many of our jobs are performed by contract workers at much lower pay and benefit.*

*We must continue to successfully fight contracting out by sticking with our union. The courts, some lawmakers and far too many lawmakers at all levels of our government would like to see public services in the hands of private corporations, operating for profit versus providing quality public service.*

*Last but definitely not least, in states with weak union membership pay and benefits for state employees are much less. Many lost pay, healthcare costs increased dramatically and many public servants lost their jobs. Why? Because they gave up their power, the power of a strong, active union membership.*

*We encourage you to maintain your WFSE membership as we are stronger together and need to continue the fight for a strong contract and a positive work life balance for all members.*

*Please call us at 1-833-622-9373 to discuss your request.*

It is my understanding that this worker was not contacted regarding said request before receiving the above email -- in direct conflict with the union representative's claim that "we have attempted to contact you about your request."

More troubling is that nothing in the above email indicates the union had any intention to respect the worker's straightforward request and cancel the membership. On the contrary, the email was blatantly defiant of the spirit of *Janus*, and relied on guilt and scare tactics before offering nothing more than to "discuss [the] request."

The language from the above email stands in stark contrast to what courts have required when citizens have asserted their rights in other contexts. For example, once an individual receives a *Miranda* warning, any sort of indication that he or she wishes to remain silent means questioning must cease or not begin. This is to protect the person invoking his privilege from compulsion, subtle or otherwise. The email language above is the functional equivalent of attempting to compel a worker to continue paying dues regardless of the clear indication that he or she has exercised the constitutionally protected freedom of choice to refuse further deduction of union dues.

While it appears from the OFM letter dated July 6, 2018, that Washington plans to comply with the *Janus* ruling, I see no reason to renegotiate any provisions dealing with dues deductions in existing collective bargaining agreements. Severability clauses in said agreements are explicitly included to remove such invalid provisions without the need for renegotiation. It is disingenuous to imply otherwise and appears to be a delay tactic to slow down legitimate compliance with the *Janus* decision.

The biggest disappointment, however, is the unions' decision to keep information regarding workers' freedom of choice from them. It is not the worker's responsibility to track down a union representative in order to drop membership and stop fee deductions. I expect that you will convey to your labor negotiators affected by *Janus* that they must absolutely guarantee that unions cease using the sort of language quoted above and instead send a response that clearly communicates that the worker's request has been accepted. Failing to act in good faith creates the perception that unions have no regard or respect for a workers' freedom of choice and are attempting to compel them to waive their constitutional rights.

Sincerely,



Senator Mark Schoesler  
Senate Republican Leader