



# Special Edition

# 1274 NEWSLINE



North Suburban Teachers Union – Local 1274, CFL, IFT/AFT, AFL-CIO

## The Union Advantage

The theme of this issue is “life after Janus” - how will our local, along with other public sector unions across the United States, continue to survive and thrive after the landmark Supreme Court case that was meant to destroy us? The answer, of course, is solidarity. Those who brought the Janus case did so to weaken, divide, and defund us. And though they won the battle at the Court, they will lose the war if we stick together. But that solidarity should not mean simply going along with the crowd because it is the status quo. Now is a good time for us all to reflect upon what it means to belong to a union, for taking those rights and benefits for granted is the first step towards losing them.

### The Union Difference

#### COLLECTIVE BARGAINING

The fundamental right that unionized workers have over those without a union is to collectively bargain with their employer to determine **wages, hours, and other terms and conditions of employment**. Most of the union benefits discussed here flow from this one essential right.

Before elaborating on the right of collective bargaining, consider what it means to be without a union. With no union, the employer unilaterally determines all wages, hours, and working conditions. With no union, there is no real contract - wages, hours, and working conditions can be changed at any time by the employer. Without a union, we would all be what is known as at-will employees, open to discipline and even discharge at the employer's whim. So as you read on to see a sample of the types of rights and benefits typical in a collective bargaining agreement (CBA) - like your contract - keep in mind that without a union those benefits would be determined solely by your employer.

So what are the rights and benefits found in a typical collective bargaining agreement?

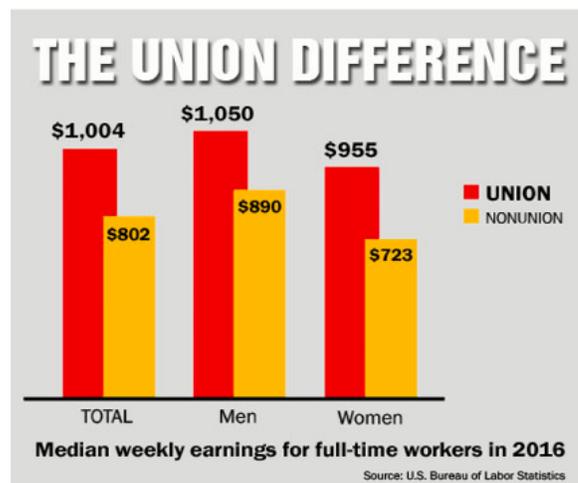
#### WAGES

Research shows that unionized teachers earn over 22.1% higher wages than those without a union. That

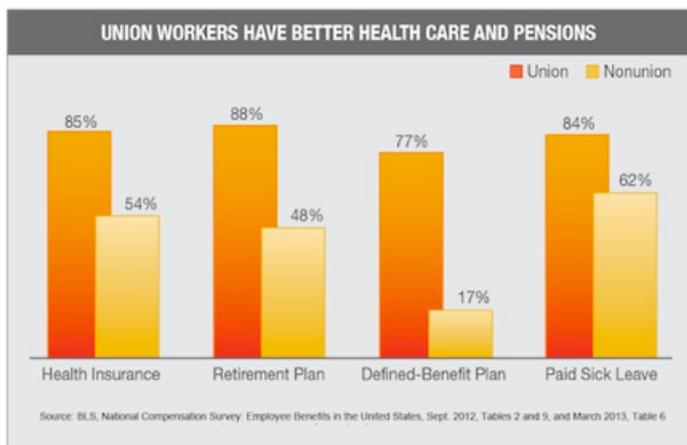
is consistent with research on all other occupations and trades, including our own support staff workers, in which union and non-union wages can be compared. Makes sense, doesn't it, that when workers have a seat at the bargaining table they end up with higher wages than they would earn at the employer's sole discretion.

#### FRINGE BENEFITS

A subset of wages, fringe benefits refers to extra consideration earned by employees, in addition to salary, such as health insurance and retirement plans. The chart below shows a strong advantage for unionized workers in regards to fringe benefits. Not only are unionized workers more likely to have health insurance, they tend to have more generous policies that cover more services with fewer out-of-pocket



costs shifted to the employee. As for retirement security, unionized workers are more likely to have the preferable defined benefit plan - like our TRS and IMRF - than merely defined contribution plans like 401k's.



**HOURS**

Your contract defines the hours that you work in the day, the length of the school day and school year. For PSRPs, it determines the length of a shift, overtime, comp time, and other features of your work time - all of which must be negotiated between the employer and employees when the workers have organized as a union, but determined exclusively by management when there is no union.

**WORKING CONDITIONS**

Though wages and hours are the most prominent feature of a collective bargaining agreement, those issues might take up a scant few pages. The rest of your contract is devoted to those other terms and conditions of employment that labor law considers to be mandatory subjects of bargaining when a workplace has a union. There is no room here to describe all types of working conditions that must be negotiated - some of our contracts are over 100 pages long - but we will cover some items that are typically found in CBAs.

**Due Process/Just Cause**

Most CBAs provide employees with protection against discipline - including dismissal - without being provided with due process to determine if there is just cause for such action. Due process entails such basic rights as to be told of your accused wrongdoing; to be shown evidence of such wrongdoing; and to have a union representative present at any disciplinary meeting (see below for Weingarten

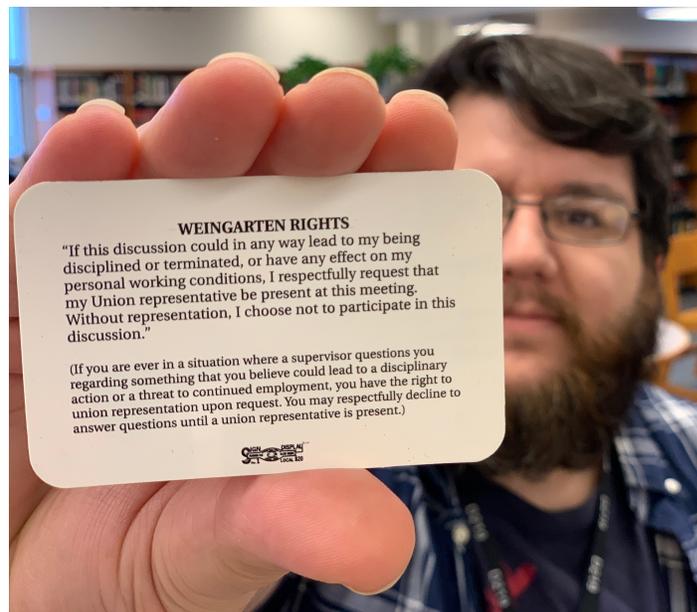
Rights). Should the employer meet that reasonable standard to demonstrate just cause for discipline, labor law states that that discipline must be fair, meaning that it is progressive and that it fits the transgression. Without a union, there is no right of due process and no determination of just cause - the employer can mete out discipline - including discharge - at their own discretion.

**Weingarten Rights**

Based on a 1975 Supreme Court ruling, union workers have a right to have a union representative present at any investigative meeting with a supervisor that might lead to discipline or discharge. But to exercise that right, the union member must specifically request it. So if you are ever in a meeting with a supervisor who is asking you any questions about your conduct, be sure to say the following:

*"If this discussion could in any way lead to my being disciplined or discharged, I request that my Union representative be present at the meeting. Without representation, I choose not to answer any questions."*

Remember, this is your absolute, Constitutional right as a union member - be sure to use it!



Look for the Weingarten Rights on the back of your North Suburban Teachers Union card. NSTU member Alfredo Luna is shown holding his card.

**Article continued on page 5.**

## The Janus Ruling Explained

By now most have at least heard of the recent landmark Supreme Court ruling in the case of Janus v AFSCME that was meant by the plaintiffs to deliver a knock-out blow to public sector unions. But for those still unaware of the facts of the case - and it does involve a rather technical corner of labor law, that surrounding something known as union security clauses - here is a brief overview.

When unions were granted the right to collectively bargain on behalf of employees in the workplace, that right came with what is known as the duty of fair representation. Since all employees receive the same benefits under one collective bargaining agreement, or contract, the union has a legal responsibility to represent all employees equally, whether they choose to join the union or not. Recognizing that duty, labor law has allowed for the negotiation of union security clauses that permit unions to collect a fair share of dues from non-members to cover the cost of representing them in negotiating and defending their benefits and rights under a collective bargaining agreement. (A side note here in labor history: the 1947 Taft-Hartley Act, a law that rolled back rights granted to employees under the earlier Wagner Act, contained a clause that allows states to make union security clauses illegal. States that took up that right by banning fair share dues are what are known as so-called "right-to-work" states.)

In 1977, a group of teachers sued the Detroit public schools, arguing that since they did not agree with all of their union's political positions, being required to

pay fair share dues represented a violation of their right of free speech. In a unanimous landmark ruling known as *Abood v. Detroit Board of Education*, the Court held that unions had a right to collect fair share dues from non-members to cover their costs of contract negotiations and enforcement, but that the union could not use those dues to pay for political activity. That had been the settled law of the land for over 40 years, until Janus.



The plaintiffs in Janus made the unique argument that in the case of public sector unions, ALL work of the union is tantamount to political speech - not just political action, but contract negotiations, grievance handling, and everything else. Under that logic, any employee who disagreed with any part of any action by the union could be spared from having to pay any dues at all should they choose to opt out of union membership. Though no longer dues paying members, those defectors would still enjoy all of the rights and benefits of the collective bargaining agreement and the union would still have the duty to represent those workers fairly - at the bargaining table, in a disciplinary meeting, or in a contract dispute with management. In a split decision, the five conservative justices bought the plaintiffs' argument and overturned the longstanding precedent established in *Abood*, ending fair share dues for non-members while preserving the union's duty of fair representation. The end result gives all public sector employees the status of those in so-called right-to-work states.



Weingarten rallying in New York City to protest the Supreme Court's Janus decision, June 27. Photo: Professional Staff Congress

## From the President: Our Union in the Age of Janus

It's past history now, but the Supreme Court ruling in the case of Janus v AFSCME that came down on June 27, 2018 will forever change the way public sector unions - including our Local - operate. The ruling is considered by many legal scholars to stand on shaky grounds and it reeks of political bias. But like it or not it is the new law of the land and we will all need to live with its consequences. (For those still unaware of the facts of the case, see the article on page 3).

Though there is no sense in re-arguing the case at this time - what's done is done -

there is a misconception being perpetrated by the plaintiffs that needs to be addressed. That misconception, indeed, that lie (Lie: an intentionally false statement meant to mislead),

which was plastered across newspaper editorials and social media in the aftermath of the decision by those who brought and paid for the case, is that the Janus ruling somehow represented a victory for workers. Calling Janus good for worker rights is like claiming that Plessy v Ferguson was a victory for Civil Rights.

The Janus case represented the culmination of a decades-long struggle to deny essential rights of workers by weakening and defunding the unions that represent them. It was brought and funded by a cadre of right-wing, anti-union groups, corporations, and wealthy individuals - like outgoing Illinois Governor Bruce Rauner, the Koch brothers, Richard Uihlein, Richard and Betsy DeVos (yes, that DeVos), the National Right to Work Legal Defense Foundation, and others who share in the vested interest of providing management a free hand in dictating the wages and working conditions of their employees without the nuisance of having to bargain with a union. The idea that this group cared anything about the free speech - or any rights for that matter - of working people is laughable.

But the deed has been done and the question now is what happens next with the labor movement? Bernie Sanders put it well at the AFT Convention this summer when he said: "I have the feeling that those who thought the Janus decision would hurt the trade union movement in this country may be in for a big

surprise...it may end up being one of those decisions that helps us rebuild the trade union movement in America."

Sanders' point is that a union and its members will no longer be able to take each other for granted. Rather than just belonging because they have to pay dues anyway so why not, members are going to need to reflect upon the value of belonging and on what they stand to lose should their union be weakened or even eliminated by defections. And unions cannot simply count on member loyalty without being an inclusive, democratic organization, providing all members with representation that is both fair and fierce. Sanders and others believe that this process will lead to a better connection between workers and their unions, greater solidarity, and thus a stronger labor movement.

And what about our local? So far, over 99.5% of our members have said loudly and clearly that they are sticking with their union. As for the small number of defectors - fewer than ten out of over 1,700 members - they may be viewed by some as freeloaders - happy to take all of the negotiated benefits of their contracts, along with union representation when needed, while shifting the cost for those services onto the rest of the membership. Yet for now, we choose to see them not as freeloaders but as potential members, hoping that they will one day recognize what the 99.5% already understand: that we are stronger together and that the only way that the well-funded enemies of workers can defeat us is if we quit on each other.

In solidarity,




Continued from page 2.

## The Union Difference

### COLLECTIVE BARGAINING

#### Grievance Procedure

To ensure that the employer is following the contract, and providing employees with due process in disciplinary cases, our CBAs have a grievance procedure that details an orderly process for resolving those issues - including the right to have an independent arbitrator settle disputes if the two sides cannot do so themselves.

#### Anti-union Myth #1:

*Unions protect bad employees.*

Not true. Unions protect the right of due process - a right that every employee should have, though most non-union workers do not. Unions have no interest in keeping bad employees on the job. These are, after all, our workplaces and we take great pride in them. When an employee is unfit for duty, no one suffers more than their fellow worker. But everyone deserves a fair shake before being disciplined or discharged. And prior to taking such action, shouldn't the employer be held to minimal standards of evidence to prove that wrongdoing has occurred? Isn't it basic fairness to protect workers from action against them that might be arbitrary or capricious?

#### Evaluation Procedures

Just as workers deserve a fair process before being disciplined, the same is true for employee evaluations which can greatly affect our employment status. Though Illinois law has specific conditions for teacher evaluation, that same law specifies that many of those procedures must be bargained. With a union, workers have a voice in developing fair evaluation procedures and instruments.

#### Paid Leave

The U. S. is the only industrialized country in

the world that guarantees workers absolutely zero paid days off of work, whether it be sick leave, vacation days, holidays, or parental leave. Therefore workers must earn paid leave through their employers, something only likely where collective bargaining - and unions - exist. Across Local 1274, our contracts provide workers with a variety paid leave benefits such as sick leave - including days that can be carried over throughout one's career if unused, bereavement leave, personal days, holidays, and compensatory time.

Though paid parental leave is rare, even in union contracts, many local members are able to use up to 30 days of accumulated sick leave to care for a newborn child.

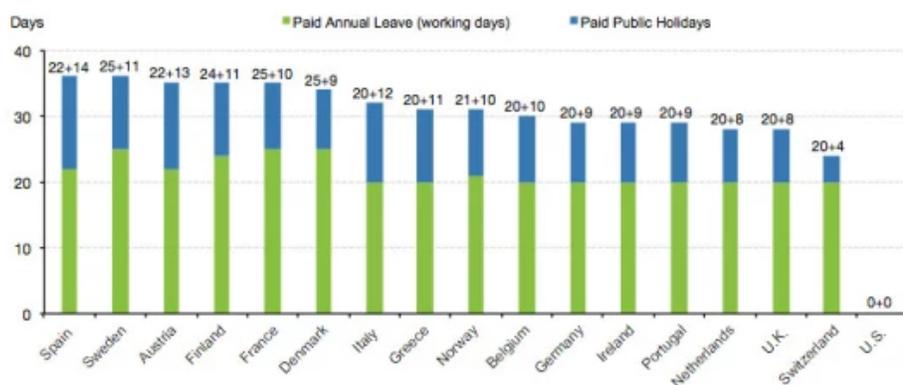
#### Unpaid Leave

Our contracts also provide opportunities for employees to take unpaid leave far more generous than the minimum federal standards set by FMLA. Where FMLA is limited to 12 weeks and can only be used for childbirth and disabling injury and illness, our CBAs offer unpaid leave for extended periods of time covering various reasons such as child rearing, professional development, necessities of the home, and simply needed rest.

#### Work Assignments

Without a CBA, management would have the sole right to make and change work assignments for its employees. Your contract gives you protection and/or input into your work and teaching assignments.

**Figure 5. Total paid annual leave (statutory minimum leave plus public holidays)**

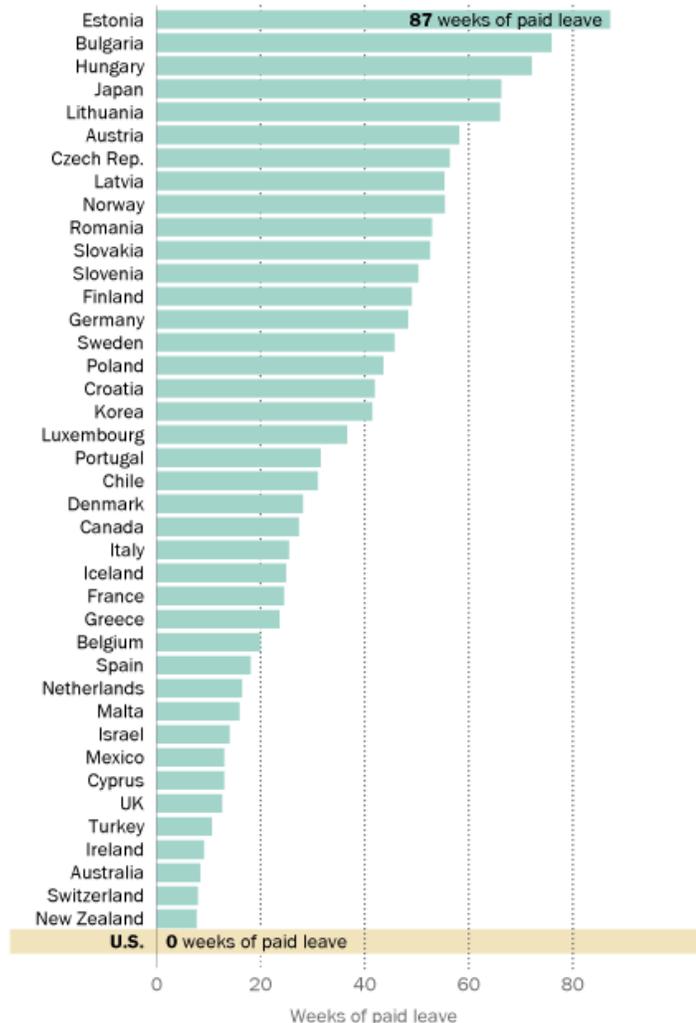


Notes: Statutory minimum leave is normalised in accordance to a five-day-working week. Paid public holidays exclude those that fall on Sundays, but include those that fall on Saturdays. In the U.S., there is no legal requirement for private businesses to grant paid holidays to their employees.

Source(s): International Labour Organisation, Conditions of work and employment programme (2012); Eures, Living and working conditions; and Ray, Rebecca; Schmitt, John. "No-vacation nation USA - in OECD countries" (PDF). European Economic and Employment Policy Brief (No. 3 - 2007).

**Of 41 nations, only U.S. lacks paid parental leave**

*Total weeks of paid leave mandated by national government to new parents*



Notes: Includes maternity leave, paternity leave and parental leave entitlements in place as of April 2015. Estimates based on a "full-rate equivalent," calculated as total number of weeks of any paid leave available to a new parent, multiplied by average rate of earnings reimbursement for those weeks of leave.

Source: Organization for Economic Cooperation and Development Family Database

PEW RESEARCH CENTER

**Work Time**

The provisions in your contract that protect your work time (duty free lunch, prep time, office hours, other work breaks, collaboration time, etc.), and that protect you from undo incursions into your productive time (excessive faculty and staff meetings, supervision and other onerous duties, etc.), are there because the union insisted upon them at the negotiating table.

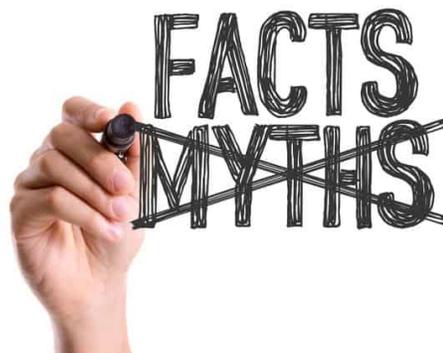
**Workload**

In order to be productive employees and to best serve our students, your union over time has

negotiated constraints on your workload including class size, total student load, and caseload limits for counselors and other specialists.

**Professionalism**

You will find many contract clauses across the Local that recognize and protect the expertise brought to the workplace by you, the employee. Examples include protection of academic freedom, professional development, committees that provide worker input into district policies, health and safety, etc.



**Anti-union Myth #2**

*Unions are greedy, just looking out for themselves and their members.*

Not true. There is a saying that goes **"A teacher's working conditions are her students' learning conditions."** When unions negotiate for issues such as smaller class size and manageable workloads; time for preparing, grading, and meeting with students; teaching courses that fit within our areas of interest and expertise; time for collaboration and professional development; employee voice in the workplace; etc., etc., our students directly benefit. In fact, a recent study has concluded that there is a direct relationship between unionized teachers and student performance. Even those issues that seem to benefit only the worker have a positive effect on our students. Contracts that offer higher pay and better benefits attract more highly qualified job applicants and thus a more dependable and stable workforce.

And finally, unions do not merely bargain for their narrow self-interests. We serve as forceful advocates on a variety of issues of social justice and fairness related to our work, including increased funding for public education, improved health care, retirement security, fair taxation, eliminating the privatization of public services, protecting worker rights, etc.

## We Cannot Take These Rights and Benefits for Granted, For We Can Lose Them Tomorrow: Here's How.

Most of the unions in our Local have been around for decades - long before any of us began our careers - making it easy for us to assume that they will always be there, or that they are no longer needed since our contracts are already in place. But those assumptions can lead to the kind of apathy that can cause us to lose it all - and that is exactly what the supporters of Janus are counting on. Here are the ways we can lose our union if we allow them to divide us:

### Union Defunded

To effectively represent its members, a union like ours depends upon an organizational structure that requires funding through member dues. Remember, your dues finance not just the work of your council, but the local, the IFT, the AFT, and even the AFL-CIO and the CFL - all of which provide essential support for you in the workplace that is mostly behind the scenes. Every time a worker decides to quit the union they are passing on those costs to the rest of us while maintaining many of the benefits - hence the term, freeloaders. At a certain point, that loss of dues will impair the union's effectiveness.

### Union Decertified

Our unions exist because at some point in time the workers organized themselves, demonstrated to the labor board that there was enough interest hold a certification election, and then prevailed in that election with a majority vote. As some people quit the union, that could lead others to become resentful and follow suit. If that snowball effect is allowed to grow, the employer has a right to insist on a new election to recertify the union, and if that vote fails - no more union.

### Rights Legislated Away

Illinois has strong worker rights legislation, including the Illinois Educational Labor Relations Act that since 1983 has provided us with our rights to collectively bargain, pursue grievances to arbitration, and to strike. Until recently Wisconsin, Michigan, Indiana, and Iowa also had laws protecting worker rights, but not any more. Those states have removed or greatly restricted collective bargaining rights of public employees. We have an outgoing governor who tried to do the same thing here - and we will always be one bad election cycle away from losing our rights;

that is why, like it or not, we must engage in political action to protect our rights and our profession.

So we must stick together to hold onto the rights and benefits that we have spent literally decades to earn. A single member quitting puts a crack in our foundation, placing at risk everything that the rest hold so dearly.



### Benefits for Members Only

Though non-members maintain all of the rights contained within a collective bargaining agreement, along with the right of union representation, there are many benefits that belong to union members only.

#### **Union voice**

Non-members give up their voice in how the union is run. They lose the right to vote in union elections, hold office, attend union meetings, and to provide their input into union decision making. Union's are democratic organizations - of, by, and for the members. If one is dissatisfied with his union's leadership, the answer is not to quit for in doing so he loses his voice. The answer is to stay in and get involved!

#### **Union information**

Non-members do not have access to union sponsored trainings, professional development, newsletters, and other services meant to keep members informed. Recent examples include a retirement workshop for D219 PSRPs, a pension forum, a student loan forum, professional development classes offered tuition free for union members, and many more.

*Continued on page 8.*



Continued from page 7.

#### **Union events**

From picnics to solidarity dinners, May Day celebrations to happy hours, our unions provide a variety of events for members only.

#### **Member Benefits**

The AFT leverages the power of its 1.7 million members to offer a wide variety of fringe benefits and discounts on insurance, legal and financial services, shopping, travel and entertainment, scholarships, and more. For the full list, go to [www.aft.org/benefits](http://www.aft.org/benefits).

### *Without a Union...*

There would be no contract

Management would determine all wages, hours, and working conditions

Workers would have no voice in the workplace

Workers would have no right to due process

Workers could be disciplined or discharged without just cause

We would all be at will employees!

## **1274 Newsline**

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