



Foundation *Action*

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of the National Right to Work
Legal Defense Foundation, Inc.

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After *Janus*, Foundation Continues Fight to Expand Freedom for Public Employees

Building off Janus, CUNY professors' lawsuit could end forced 'representation' powers



Credit: Fox News

of New York (CUNY) professors seek to knock down the final pillar of coercive union power in the public sector -- union bosses' power to force their one-size-fits-all "representation" on workers who don't want it.

A brief recently filed at the Second Circuit Court of Appeals for the professors argues that PSC union officials are violating the professors' First Amendment rights by forcing them to accept the union's monopoly control and "representation."

Professors' Lawsuit: *Janus* Already Noted Dangers of Monopoly Bargaining

The professors have found the actions of PSC union bosses and adherents to be "anti-Semitic, anti-Jewish, and anti-Israel," and have even reported union-instigated bullying and threats targeted against them.

See '*Janus Lays Groundwork*' page 7



SUPREME COURT RULES AGAINST ORGANIZED LABOR

FOX NEWS ALERT

The Foundation's historic Janus victory was a serious blow to public sector union bosses' coercive power in its own right. But it also opened the door for efforts to free public workers completely from forced dues and forced representation.

NEW YORK, NY – Up until 2018, union bosses had the power to force millions of government workers to pay union dues or fees just to keep their jobs. While such an enormous privilege was not only a gross violation of workers' free association rights, it also provided a steady stream of forced dues to union bosses, which contributed to their outsized influence over the government and our political system.

Union officials' forced-dues power over public sector workers crumbled on June 27, 2018, when National Right to Work Foundation staff attorneys won the landmark *Janus v. AFSCME* decision at the U.S. Supreme Court. A majority of the Justices agreed with Foundation attorneys that every American public sector worker has a First Amendment right to abstain from paying dues to an unwanted union.

On the fifth anniversary of *Janus*, its impact can't be overstated. Between the *Janus* decision itself and over 50 follow-up cases, Foundation staff attorneys have enforced the rights of over 500,000 employees nationwide. Meanwhile, studies find that independent-minded workers are withholding over \$700 million in formerly mandatory dues and fees from public sector union bosses every year as a result of the decision.

Of course, Foundation staff attorneys continue to fight to defend, enforce, and expand on the landmark decision.

New Challenge to Forced 'Representation' Reaches Court of Appeals

In an ongoing Foundation-assisted case, *Goldstein v. Professional Staff Congress (PSC)*, six City University

IN THIS ISSUE

- 2 Starbucks Workers Nationwide Rising Up Against Union Representation
- 3 Victory: San Diego Charter School Educators Vote Out Teacher Union Bosses
- 4 Mark Mix Labor Day Op-Ed: Biden's Labor Board Wants to Trap Workers in Unions
- 5 Philly Public Defender Beats Illegal UAW Dues Deduction Scheme

Starbucks Workers Nationwide Rising Up Against Union Representation

Foundation provides free legal aid to Starbucks employees looking to remove unions

WASHINGTON, DC – Union bosses and their bought-and-paid-for political allies like Sen. Bernie Sanders and Rep. Alexandria Ocasio-Cortez have been touting the unionization of some Starbucks locations as a breakthrough for Big Labor. But Starbucks employees under union control are increasingly realizing the drawbacks of having union bosses in the workplace and are banding together to say “NO” to union power.

In the last few months, employees at Starbucks locations in Manhattan and Buffalo, NY, Pittsburgh, PA, Minneapolis, MN, and Salt Lake City, UT, have all filed decertification petitions at the National Labor Relations Board (NLRB), requesting the agency hold elections at their stores to remove the Starbucks Workers United (SBWU) union. All have received free legal aid from National Right to Work Foundation attorneys.

But SBWU union officials -- boosted by operatives from their notorious puppeteer, the Service Employees International Union (SEIU) -- are fighting tooth and nail to remain in power at Starbucks locations where workers want them gone. SBWU union officials are flooding the National Labor Relations Board (NLRB) with unrelated charges of alleged employer wrongdoing in an



Mark Mix appeared on Newsmax TV this summer to discuss reports that union bosses spent millions to infiltrate Starbucks workforces with union agitators, many of whom hid their affiliations from their coworkers and even Congress.

attempt to stall these decertification petitions.

Starbucks Worker's Brief Blasts NLRB Double Standard on Elections

In June, Foundation staff attorneys filed a Request for Review with the NLRB in Washington, D.C., as a part of a case for Buffalo Starbucks worker Ariana Cortes. This request asks the Board to reverse an NLRB Regional Director's order dismissing Cortes and her coworkers' majority-backed petition for a decertification election on whether to remove SBWU.

The filing emphasizes that

the employees want an election to remove a union that lacks the support of a majority of the workers. Employee free choice is a fundamental principle of the National Labor Relations Act (NLRA), and by denying these employees an election, the Board is undermining free choice.

The brief also observes the basis for blocking the vote is contradicted by the NLRB allowing union-backed certification elections to proceed with little or no delay. The result is that the SEIU is like a roach motel, easy to enter but impossible to leave.

Efforts to Boot SBWU Increasing Across Country

“They have treated us like pawns, promising us that we could remove them after a year if we no longer wanted their representation, and are now trying to stop us from exercising our right to vote,” Cortes said of SBWU union bosses. “It’s obvious they care more about power and control than respecting our individual rights.”

Cortes and her coworkers are not the only workers to become disillusioned with SBWU.

See ‘Starbucks Workers Roasting’ page 7

Foundation Action

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Victory: San Diego Charter School Educators Vote Out Teacher Union Bosses

SDEA officials stonewalled vote for years with “blocking charges” and pressure from elected officials

SAN DIEGO, CA – When San Diego Education Association (SDEA) union officials rose to power in 2019 at Gompers Preparatory Academy (GPA), educators and parents were rightfully concerned about what impact it would have on students’ progress and well-being.

Gompers had made an impressive transition to being a union-free charter school in 2005 after years of being plagued by unresponsive union bureaucracies, violence, high teacher turnover, and poor academic achievement. Teachers who feared that union monopoly control would allow such problems to creep back into Gompers quickly began an effort to vote out the union.

“I chose to work at a school that didn’t have a union, and now they’ve come in and they’re running everything about my contract and my work,” Kristie Chiscano, then a Gompers chemistry teacher and proponent of the decertification effort, said at the time.

While union stall tactics derailed Gompers educators’ 2019 effort to oust the union, Gompers educators didn’t give up. A majority of Gompers teachers backed another petition asking the California Public Employment Relations Board (PERB) for a vote to remove the union in 2023. Now, after years of legal maneuvers from union officials, Gompers educators have successfully ousted the SDEA with free legal aid from the National Right to Work Foundation.

SDEA Officials Used Spurious Charges to Block Earlier Teacher Effort

“There is definitely a lot more joy that’s going to be in classrooms now, instead of a burden with the union,” Cynthia Ornelas, a sixth grade Gompers teacher, told KPBS. “The union was making decisions for us, oh my goodness! We never knew what they were deciding because they



Kristie Chiscano kick-started the first effort at Gompers to remove the SDEA union. She witnessed firsthand that union control was ruining the independent nature of the school.

didn’t communicate with teachers.”

Gompers teachers’ first effort to eliminate the SDEA union stemmed from an October 2019 petition that had the backing of a significant number of teachers, more than required by state law. However, SDEA union bosses averted the election by filing so-called “blocking charges” containing allegations of employer misconduct.

Union officials often manipulate “blocking charges” at the PERB and other state and federal labor relations agencies to stifle worker attempts to eliminate unpopular union “representation.”

As Foundation attorneys defended Gompers educators’ first petition, they also challenged a regulation requiring PERB agents and attorneys to accept union bosses’ “blocking charge” allegations as true. This regulation almost guarantees union defeat of any worker attempt to vote a union out.

Despite the PERB never holding a hearing into whether SDEA union bosses’ claims had any merit or whether they were related to the workers’ dissatisfaction with the union, PERB officials denied a decertification election to Gompers educators in October 2020.

Aside from legal maneuvers,

union officials used intimidation and pressure to avoid being voted out. Chiscano and another Gompers educator filed charges maintaining that SDEA agents targeted them on social media for opposing the union hierarchy. California law makes it illegal for union officials to intimidate or retaliate against employees who exercise their right to refrain from union membership. Union-label California legislator Lorena Gonzalez, then an assemblywoman and now a top California AFL-CIO official, even wrote a screed to Gompers management that attacked the National Right to Work Foundation for simply providing legal aid to Gompers educators.

Teachers’ Long Struggle Exposes Massive Power of CA Public Sector Unions

Gompers educators submitted the March 2023 petition at the earliest time permitted by California labor regulations, which immunize union officials from employee-led decertification efforts for all but a tiny window while union contracts are active. Now, nearly four years after their original effort began, Gompers educators are finally free from union control.

“Gompers educators witnessed that SDEA union officials were not acting in the best interests of the students or the school community at large, and they fought courageously to bring back the independent environment that made Gompers a success,” commented National Right to Work Foundation President Mark Mix. “However, Gompers teachers shouldn’t have had to fight as long or as hard as they did simply to exercise their rights. No special interest group in California, or in America, should wield this kind of power over teachers and the public education system.”



Biden's Labor Board Wants to Trap Workers in Unions They Oppose

By Mark Mix, Opinion Contributor

Originally published
in *The Hill*
Monday,
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Big Labor bosses have a problem: Despite their vitriolic rhetoric and a small number of loud online activists, most workers want nothing to do with unions.

A Gallup poll released last Labor Day spotlighted the issue: A strong majority of nonunion workers in the U.S. (58 percent) say they are “not interested at all” in joining a union, whereas just 11 percent say they are “extremely interested.”

Since it takes a majority of workers in a given workplace to support a union before monopoly union representation can be imposed, union organizers face a basic math problem — one that explains why only 6 percent of private-sector workers are unionized today.

Yet rather than consider ways of making unionization more attractive to rank-and-file workers, politically-connected union bosses have a different plan: Rig the rules to force more workers into their ranks, willing or not.

President Biden, who campaigned on being “the most pro-union president in American history” and is counting on Big Labor’s multi-billion-dollar political machine again in 2024, is unleashing his administration to the benefit of his favorite special interest.

The National Labor Relations Board (NLRB), stocked with Biden appointees and former union lawyers, has been busy doing just that. If workers won’t voluntarily vote unions in, Biden’s NLRB, whose rules cover most private sector workers, wants to take their vote away.

That’s why the NLRB, at the end of August, effectively mandated the “card check” unionization process by bureaucratic fiat. Never mind that numerous union-backed measures in Congress to require this abuse-prone unionization process have failed to pass into law.

Card check drives occur when employers, usually in the face of union-applied political and economic pressure, waive workers’ right to a secret ballot election. During these drives, union officials are allowed to demand union authorization cards directly from workers using coercive tactics that would be unlawful during a secret ballot vote.

Union organizers can show up at workers’ homes over and over again demanding signatures, in some instances requiring workers to call the police to get organizers to leave. Workers report being misled about the true implications of signing the cards, and some have been told they would be fired if they didn’t sign just before the union successfully took over.

Some workers even face threats of violence. In one SEIU organizing drive, a worker reported being told that the union would “come and get her children” and “slash her tires” if she didn’t sign a union card.

By its very nature, card check makes it impossible to keep one’s views on unionization private, a dangerous liability in the often heated environment of a union organizing drive.

The Biden NLRB’s moves to rig the rules to favor union bosses don’t stop there. Any day now, the Biden majority on the Board, which includes two former Service Employees International Union (SEIU) lawyers, is expected to finalize rulemaking to undo the 2020 “Election Protection Rule” and further restrict workers’ right to hold votes to remove unions they no longer want representing them.

In overturning the 2020 rule, Biden’s NLRB is trying to block workers from holding “decertification” votes, which strip undesired unions of their power to impose their representation upon all workers in a bargaining unit. This is a priority for Big Labor because in recent years the NLRB has seen double-digit increases in the number of worker-backed decertification petitions.

The Biden NLRB rule would also eliminate workers’ right to challenge a card check by requesting a secret ballot vote, instead giving union officials a year to impose a contract after installing themselves via card check. During that year-long period, union bosses would have the opportunity to impose a union contract that itself could block a decertification vote for up to three additional years.

Another provision in the pending rule would mean that even when workers are allowed to file for a decertification vote, union officials can block the vote from taking place by filing unsubstantiated “blocking charges,” sometimes one after the other, against the employer. The result will be a delay of months or even years before ballots can even be cast against the union.

This is a cynical ploy to make unionization drives easier, while blocking the exits for workers dissatisfied with poor union representation.

While we honor workers this Labor Day, the Biden NLRB’s machinations are also a reminder that the position in favor of union bosses is frequently an anti-worker position.

Mark Mix is president of the National Right to Work Foundation.

Philly Public Defender Beats Illegal UAW Dues Deduction Scheme

UAW boss threatened to reduce workers' wages for not signing dues card

PHILADELPHIA, PA – Brunilda Vargas, a public defender for the City of Philadelphia, staunchly objected when United Auto Workers (UAW) Local 5502 union bosses sought to gain power over her and her colleagues at the Defender Association of Philadelphia.

After UAW union officials were installed in her workplace, things only got worse for her. A UAW union official threatened Vargas and her coworkers that, if they didn't sign cards authorizing the direct deduction of union dues from their paychecks, their wages would be reduced. This threat was a blatant violation of federal law.

Vargas challenged UAW officials' illegal demands with free legal aid from the National Right to Work Legal Defense Foundation. Union bosses quickly backed down, and in June entered into a settlement approved by National Labor Relations Board (NLRB) Region 4 which fully vindicates Vargas' and her coworkers' rights.

Public Defender Hits UAW with Federal Charges Following Intimidation

On April 18, 2023, Vargas filed her federal unfair labor practice charge with NLRB Region 4 for the threats made against her and her colleagues at the Defender Association of Philadelphia. UAW officials issued these threats against public defenders who chose not to sign automatic dues deduction authorization forms.

Even though Vargas works in the non-Right to Work state of Pennsylvania and can be forced to pay some union dues as a condition of employment, federal law prohibits forcing workers to authorize automatic dues deductions from their paychecks. Had Vargas lived in a Right to Work state, not only would she have the right to refrain from automatic dues deductions from her paycheck, but she could also refrain

The Philadelphia Inquirer

April 25, 2023

"It is appalling that a UAW Local 5502 union official **would threaten public defenders' wages** for refusing to authorize deductions straight from their paychecks."

- Mark Mix, Foundation President

Brunilda Vargas surely didn't feel "represented" by UAW bosses when they sought to reduce her and her colleagues' pay just for not signing dues cards. Mark Mix expressed the outrageousness of this scheme to The Philadelphia Inquirer.

from financially supporting the union altogether. In Right to Work states, workers are fully protected from mandatory union membership and financial support, both of which must be completely voluntary.

Settlement Forces Union Bosses to Fully Abandon Illegal Threats

Now, pursuant to settlements, the UAW must email and post notices informing workers that the union will not work with the workers' employer to reduce wages of non-members that do not sign automatic dues deduction forms. The union must also not suggest failure to sign a dues deduction card could lead to a worker's termination. Finally, the union must not coerce or restrain individuals from expressing their rights under Section 7 of the National Labor Relations Act.

"[UAW] will not threaten objecting non-members that we will notify the Employer it can seek refunds of their contractual salary increases if they do not sign a dues deduction authorization form. Neither employees nor members are legally required to execute a dues deduction authorization form," the notice reads.

"While we are happy that we were able to help Vargas and her coworkers fight UAW misconduct, this instance

is but the tip of the iceberg when it comes to UAW malfeasance," commented National Right to Work Foundation Vice President Patrick Semmens. "The recent federal probe into UAW officials stealing and misusing workers' money has sent multiple top UAW bosses to jail, and uncovered a shocking culture of contempt for workers' rights."

"Fortunately, the numerous victims of UAW boss abuses need not fight alone," continued Semmens. "They have an ally in the National Right to Work Foundation." ✚

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**Rated "A"
by CharityWatch**

**Source: Charity Rating Guide
Summer 2023**

American Institute of Philanthropy



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Make A Planned Gift to the National Right to Work Foundation Today!

Experts advise putting a will or estate plan in place now to avoid putting an unnecessary burden on family members later. Including the National Right to Work Foundation in your estate and giving plans allows you to invest in the Foundation's battle against Big Labor coercion while enjoying the tax advantages of supporting an IRS-recognized charity.

In addition to including the Foundation in your will or estate, Foundation supporters are increasingly taking advantage of the following planned giving options, each with its own specific benefits:

CHARITABLE LEAD TRUST

A gift to the Foundation now; return of principal later.

- You can make a significant, ongoing gift to the Foundation;
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- You can reduce or eliminate income, estate, and gift taxes now and in future years.

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- Diversification of your investments and the potential for tax-free growth;
- Creation of a source of a needed income stream for your family or close relatives you designate in your Trust.

Regardless of whether you are considering your estate plans for the first time or are reviewing the ones you have in place already, there is a sense of relief when you take the time to plan ahead with an estate strategy. Additionally, by including the National Right to Work Legal Defense and Education Foundation, Inc. in your estate plans, you can join the Foundation's Legacy Society.

As with all planned gifts, please be sure to contact your estate attorney or tax advisor to help you and your family formulate the best plan for the future. If you have any questions or need additional information, please contact Ginny Smith, Director of Strategic Programs for the Foundation, at 1-800-336-3600.

Janus Lays Groundwork for Ending Union Bosses' Forced 'Representation'

continued from page 1

The professors' opening brief at the Second Circuit maintains that the Supreme Court already acknowledged in the *Janus* decision that public sector monopoly bargaining is "a significant impingement on associational freedoms," and argues that New York State's Taylor Law authorizes such bargaining in violation of workers' rights.

"If the First Amendment prohibits anything, it prohibits the government from dictating who speaks for citizens in their relations with the government," reads the brief.

The case, which will likely head to the U.S. Supreme Court no matter how the Circuit Court rules, could set a nationwide precedent forbidding public sector monopoly bargaining, just as *Janus* prohibits forced dues in all public sector



Credit: BMCC-CUNY

In a Wall Street Journal op-ed on his case, plaintiff Avraham Goldstein wrote that "New York law shouldn't provide cover for unions at the cost of individual freedom."

workplaces. The combination of both Foundation-won precedents would guard public workers nationwide from both forced dues

and forced representation.

Foundation Brief Defends State Law to Fortify *Janus*

The *Janus* victory also motivated freedom-loving state legislators to take extra measures to ensure workers' First Amendment rights under *Janus* are being enforced. In Indiana, a reform now forbids public employers from using taxpayer-funded government payroll systems to deduct union dues without a worker's explicit consent. Public employers must obtain yearly consent from workers who wish to have union dues taken from their paychecks, and must also ensure that workers have notice of their constitutional right not to fund union activities. Unsurprisingly, dues-hungry Anderson Federation

See 'Five-Year Janus Anniversary' page 8

Starbucks Workers Roasting SBWU Union as Decertification Efforts Grow

continued from page 2

Foundation attorneys recently began representing employees at Starbucks branches at Pittsburgh's Penn Center East, the Mall of America in Bloomington, MN, and Cottonwood Heights in the Salt Lake Valley, UT, who also submitted petitions demanding decertification votes on SBWU union officials.

"SBWU union bosses have not looked out for the interests of me and my fellow employees," commented Pittsburgh Starbucks employee Elizabeth Gulliford. "We simply want to exercise our right to vote out a union that we don't believe has done a good job, and both SBWU and Starbucks should respect that right and our final decision."

The Starbucks employee-led decertification attempts all took place about one year after union power was installed at these stores -- meaning workers seized the opportunity to decertify nearly as

soon as legally possible. Federal labor law prevents workers from exercising their right to remove an unpopular union for at least one year after the union is installed.

Biden NLRB Propping Up Union Boss Attempts to Squash Votes

"It is becoming increasingly obvious that SBWU officials seek to extend their power over as many Starbucks workers as possible, with little regard for the employees they claim to 'represent,'" commented National Right to Work Foundation Vice President and Legal Director William Messenger. "And as we've seen in Ms. Cortes' case in Buffalo, Biden NLRB officials are more than willing to indulge union bosses' legal maneuvers to cling onto power even when workers have clearly had enough."

"SBWU officials should not seek to disenfranchise the Starbucks

workers they claim to 'represent' as those workers try to flee the SBWU's clutches," Messenger added. "The union officials' conduct shows why fundamental changes must be made to the NLRB's election processes to better protect employee free choice." ✎

Watch Foundation attorney Aaron Solem explain to Congress the barriers workers face to decertification -- and how the Biden NLRB is planning to make it worse



Scan the QR code or visit
www.nrtw.org/solem



Five-Year *Janus* Anniversary Brings New Opportunities

continued from page 7

of Teachers (AFT) union officials sued the state to block these commonsense protections.

Foundation attorneys joined the fight recently to defend Indiana's laws. A Foundation brief in the Seventh Circuit Court of Appeals urges the court to overturn a lower court's injunction of these reforms, citing Seventh Circuit precedent. Foundation attorneys helped successfully defend a similar law in West Virginia in 2021, which the West Virginia Supreme Court upheld on the basis that union bosses "have no constitutional entitlement to employees' money or to the employer's administration of union dues deduction schemes."

Federal Courts Must End Union Monopolies

"*Janus* was a great triumph for American public workers' freedom, but it was only a step toward the ultimate goal of freeing public workers from all unwanted union coercion," commented National Right to Work Foundation Vice President Patrick Semmens. "No American worker should be forced to associate with union officials and union members that openly oppose their interests, including through attacks on their culture and religion as the plaintiffs in *Goldstein* have harrowingly experienced."

"It's encouraging to see that states like Indiana have stepped up to protect workers' *Janus* rights," Semmens added. "But ultimately, after recognizing in *Janus* and older precedents that union monopoly bargaining abridges workers' free association rights, it's high time for federal courts to end this enormous government-granted power for union bosses once and for all." ✍️



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

Years of legal battles. Personal attacks on social media. Pressure from union-label politicians.

These are just a few of the struggles educators at Gompers Preparatory Academy faced as they attempted to exercise their right to vote out San Diego Education Association (SDEA) union officials (see page 3) and restore the independent, student-focused atmosphere that led their school to thrive as a union-free charter school.

Gompers educators prevailed with free Foundation legal aid, and were finally able to end SDEA chiefs' one-size-fits-all forced "representation."

Of course, it shouldn't take navigating a complicated decertification process, or convincing others to vote out a union, for an employee to free themselves from union bosses' control.

Our fundamental constitutional principal of freedom of association says each individual should get to decide who does -- *and does not* -- represent them, especially when it comes to speech directed at the government.

After all, even convicted criminals have the right to choose their own representation, but in many states public employees are stripped of this right and forced under forced union "monopoly representation" they oppose.

But your Foundation is already hard at work on a case that has the potential to end forced union "representation" in public sector workplaces nationwide.

In *Goldstein v. Professional Staff Congress (PSC)*, which you can read about in the cover story, Foundation-backed professors at the City University of New York argue that PSC union officials -- who have attacked some of the professors' most core beliefs -- are violating the First Amendment by imposing the union's "representation" on them.

Their case, which could very likely reach the Supreme Court, builds on the Foundation's landmark *Janus* victory, and could ultimately have a similarly massive impact on government union bosses' power and influence.

That's why we're thankful for your support. Without it, the Foundation's battle-tested attorneys couldn't stand ready to defend employees against coercive union tactics and win precedents that protect the freedoms of millions of workers nationwide.

So thank you for partnering in this fight.

Sincerely,