

# EMPIRE CENTER

July 3, 2018

Dear Public Employer:

The purpose of this letter is to call your attention to a recent U.S. Supreme Court decision that has important, immediate implications for your payroll processing and withholding practices.

On June 27, the Supreme Court issued its ruling in the case of *Janus v. AFSCME Council 31*, which involved a challenge to the constitutionality of “agency fee” deductions in lieu of dues from the paychecks of government employees who have chosen not to join government unions.

The court came down on the side of the plaintiff, and the upshot for public employers is made clear on page 48 of Justice Alito’s opinion for the majority: “States and public-sector unions may no longer extract agency fees from nonconsenting employees.” Further, “[n]either an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.” Agency fee payers are nonconsenting employees.

The language of the decision is not ambiguous. Agency fees must end.

State Comptroller Thomas DiNapoli has already taken steps to ensure that the state government complies with the ruling. The comptroller said yesterday that he will no longer withhold agency fees from the paychecks of nonconsenting employees on the state payroll.

As we celebrate another Independence Day, complying with the *Janus* ruling is a way for public employers to protect the newly clarified First Amendment rights of government employees. Prompt compliance also will protect taxpayers from having to absorb the costs of any employee litigation that might otherwise needlessly result from the continued collection of agency fees.

The Empire Center has posted more information on the *Janus* case at [empirecenter.org/janus](http://empirecenter.org/janus).

Sincerely,



Tim Hoefler  
Executive Director  
Empire Center for Public Policy