

## Report to the Academic Senate

Wednesday, February 14, 2018

### 1. About Janus

*Janus v. AFSCME Council 31* is the latest attempt to overturn *Abood v. Detroit Board of Education* to come before the Supreme Court. This case was instigated initially by the billionaire governor of Illinois, Bruce Rauner, in his fight to shrink public services by crippling public employees' collective bargaining.

Soon after taking office in 2015, Rauner had tried to block union fees through an executive order. He filed a suit in federal court contending the payments were unconstitutional after the executive order failed. Illinois Atty. Gen. Lisa Madigan intervened to defend the state's labor law, and a judge ruled the governor had no standing. The suit continued after his lawyers substituted as a plaintiff Mark Janus, a child support specialist. That is the case of *Janus v. AFSCME* currently before the Supreme Court for which the court will hear oral arguments on **February 26 th, 2018**.

*Abood v. Detroit Board of Education*, 431 U.S. 209 (1977), is a US labor law case where the United States Supreme Court upheld the maintaining of a union shop in a public workplace. In a unanimous decision, the Court affirmed that the union shop, legal in the private sector, is also legal in the public sector. These "fair share" or "agency fees" have since 1977 been protected by the Supreme Court's unanimous decision.

The legal question, beyond politics, before the court is whether requiring public employees to pay a fee to a union to cover the cost of collective bargaining amounts to "compelled speech" that violates the 1st Amendment.

Cases in point: The Supreme Court upheld mandatory bar dues for lawyers in 1990, relying on the *Abood* decision. In another case, the Court rejected a free-speech challenge to the required student fees at state universities in 2000. Also, lawyers, doctors and other licensed professionals are required by state laws to pay fees for continuing education classes, including on topics some may oppose.

If the court overturns the *Abood* decision, it will have broad implications for our contractual relationship with the university and for public higher education. For us, it will have implications for faculty participation in governance, and for faculty's economic standing.

The division of labor between Senate and CFA is established by law. In 1978, Governor Jerry Brown signed AB 1091, known as **HEERA**, The California Higher Education Employer-Employee Relations Act. I recently read through the "Principles and Policies of the Academic Senate of the CSU," which has an enlightening history of our division of labor. Among many items of interest, I found the following passage in the **1985** document, Collegiality in the CSU:

"The Academic Senate of the California State University does not believe that the shared decision-making of the collegial model and the shared decision-making of the collective bargaining mode are inherently incompatible. They represent *different* approaches to *different* types of decisions. By outlining the types of decisions appropriate to the collegial process and the usual steps involved in the collegial process for these decisions, the Academic Senate hopes that this statement will help to keep separate the two approaches to decision-making and simultaneously will help to maintain and improve the collegial process of shared decision-making."

As faculty we are simultaneously imbricated in two co-equal structures, one the long tradition of shared governance by faculty and administrators, the other the tradition of collective bargaining

between faculty employees and administrative managers. These two decision-making processes mutually support each other, and if one process is weakened, the other may be as well. This would be significant as CFA and the Academic Senate collaborate on matters of shared concern: Academic Freedom, Intellectual Property, Workload, and Tenure Density. One recent example is that we have been at the forefront demanding genuine joint decision-making for CSU Executive Orders.

CFA is working hard to maintain membership and recruit new members. I ask you, this body, to actively advocate for CFA with our colleagues, to protect our working conditions, our pay, our pension, our healthcare, our profession and the CSU.

## 2. Upcoming Events

Cal Poly Data Presentation by CFA Research and Communication staff, 2/22/2018 at noon

On April 4, CFA will host an action in Sacramento urging the governor, lawmakers, and the state to allocate more funding for the CSU and to ensure that qualified California students can get into the CSU, afford to stay, get the classes they need, and help to advance California's society and economy.

## 3. Membership

Pomona Chapter Membership Headcount Report, by Appointment, as of February 2018:

|              | TT Faculty – By Rank |      |      |     | Lecturer - By Timebase |       |     | Librarian | Coach | Counselor | Other | Total |
|--------------|----------------------|------|------|-----|------------------------|-------|-----|-----------|-------|-----------|-------|-------|
|              | Full                 | Asoc | Asst | All | < 0.4                  | ≥ 0.4 | All |           |       |           |       |       |
| Member       | 249                  | 70   | 158  | 477 | 50                     | 296   | 346 | 11        | 10    | 6         | 1     | 851   |
| All          | 298                  | 81   | 178  | 557 | 203                    | 486   | 689 | 12        | 22    | 9         | 2     | 1291  |
| Membership % | 84%                  | 86%  | 89%  | 86% | 25%                    | 61%   | 50% | 92%       | 45%   | 67%       | 50%   | 66%   |

*Source: CSU PIMS database; Numbers shown are worker count with nonzero timebase*