

Focus On Political Stances May Weaken Labor Unions

By **Daniel Johns** (August 9, 2024)

On May 28, Rep. Virginia Foxx, R-N.C., chairwoman of the U.S. House of Representatives Education and the Workforce Committee, introduced a new bill named the Union Members Right to Know Act.[1]

As the press release accompanying the legislation provides, the bill is motivated by Foxx's view that "[t]oo many union members are unaware of the rights afforded to them under the law. Unions deliberately fail to inform their members of their rights in a callous attempt to exert power and control." [2]



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Foxx further stated that the "[b]ill will bring transparency and accountability, and it will foil unions' attempts to trample on the rights of members. Union members deserve to be empowered with information to make informed decisions." [3]

The proposed Union Members Right to Know Act would amend the Labor-Management Reporting and Disclosure Act, by: [4]

- Requiring unions to inform union members of employee free speech rights;
- Requiring unions to inform union members of their right to seek a reasonable accommodation to forego paying dues or fees to the union based on employees' religious beliefs or practices;
- Requiring unions to inform union members of the right to object to paying union dues related to nonrepresentational activity;
- Requiring unions to provide summaries of the law and employee individual rights to each new member within 30 days of joining the union and every year to all members; and
- Requiring unions to post a link to information about members' rights on the union's own website.

With a Democrat in the White House through at least the end of the year, it is very unlikely that the proposed legislation will advance or become law any time soon. The legislation is significant, however, because it reflects a growing issue within the labor movement.

Many recent union organizing gains are occurring in fields that require advanced degrees, and have not traditionally been targets of the labor movement, such as the legal industry, academia and the arts.

Some of these new organizing campaigns may not be focused on traditional working-class economic concerns, but instead on other ideological and political concerns. Politics, however, brings with it the possibility of division. And division brings the potential for a less stable labor movement over time. Such division within the labor movement has already started.

For example, in March, four graduate students at the Massachusetts Institute of Technology filed a lawsuit against the union representing them in their employment as graduate students at the university.[5] That union, United Electrical Workers and its affiliated MIT Graduate Student Union Local 256, has endorsed and promoted the BDS movement, which calls for boycotts of, divestment from and sanctions against the state of Israel.

Based upon their objection to this endorsement, and their view that the union engages in "antisemitic advocacy," several Jewish graduate students requested to withdraw from the union because it is an organization with which they do not align politically. The union, however, denied that request.

The students now have filed charges with the U.S. Equal Employment Opportunity Commission, alleging that the union illegally failed to provide them with a religious accommodation allowing them to forego paying dues to the union based on their disagreement with its political positions.

The union's apparent response to the students' request for religious accommodation was a statement that nothing in the Jewish religion prevents the payment of dues to a labor organization.[6] Perhaps not surprisingly, that response was not well received. As one of the objecting students wrote in an editorial to the Wall Street Journal:

That is why many of us asked for a religious accommodation that would divert our compulsory dues from the UE to a charity. The union denied my request, telling me last month in a letter that "no principles, teachings or tenets of Judaism prohibit membership in or the payment of dues or fees to a labor union," that one of UE's founders was Jewish, and that opposition to BDS isn't a position I hold for religious reasons. In other words, UE thinks it understands my faith better than I do.[7]

The EEOC has yet to rule on these charges. What is absent from this discussion, though, is how the union thought any of these issues related to student jobs or advocacy for improvements in wages, hours and working conditions. Some watching the discussion may be left wondering whether the union is more interested in political issues that are unrelated to employee job concerns.

These issues are not unique to MIT. On July 22, Graduate Students for Academic Freedom filed a lawsuit against the union representing graduate students at the University of Chicago.[8] The basis for the lawsuit is constitutional — namely, that requiring graduate students to pay even fair share agency fees to a union that they believe is anti-Israel violates their First Amendment rights.

The complaint alleges: "Graduate Students ... have been put to the choice of halting their academic pursuits, or funding antisemitism. That is unlawful." [9]

Such a political focus is not unique to higher education unions. In April, two members of a union the Association of Legal Aid Attorneys in New York City sued their union, raising similar First Amendment claims as the University of Chicago lawsuit.[10]

In that instance, because the employees are in the public sector, the plaintiffs asserted that the U.S. Supreme Court's 2018 decision in *Janus v. AFSCME Council 31*, prevented the collection of dues over Jewish attorneys' objections.[11] The *Janus* decision held that requiring public sector employees to pay agency fees to a union was inconsistent with the First Amendment.

The proposed Union Members Right to Know Act is a logical outgrowth of the issues highlighted by these cases, in which union members raise First Amendment claims based upon union support of political causes with which they disagree.

Unions focused on ideological causes beyond improvements to members' terms and conditions of employment risk disintegration from within, as jobs and members do not always align perfectly with political causes. Employers would be wise to stay abreast of these issues, as they have implications for union organizing campaigns, workplace morale and collective bargaining.

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[1] H.R. 8573, 118th Cong. (2024).

[2] See Statement from Foxx, located at <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=410627#:~:text=The%20Union%20Members%20Right%20to%20Know%20Act%3A,dues%20related%20to%20nonrepresentational%20activity>.

[3] *Id.*

[4] 29 U.S.C. Sec. 401 et seq.

[5] For a discussion of the MIT lawsuit, see <https://www.law360.com/articles/1816399/jewish-mit-grad-students-hit-union-with-eeoc-bias-charges>.

[6] See <https://www.wsj.com/articles/my-union-dues-are-being-used-against-israel-mit-grad-school-d106b26a>.

[7] *Id.*

[8] See <https://www.law360.com/illinois/articles/1861145/university-of-chicago-union-hit-with-antisemitism-claims>.

[9] Id.

[10]

See https://www.law360.com/articles/1824555?ta_id=1047751&utm_source=targeted-alerts&utm_medium=email&utm_campaign=case-article-alert.

[11] *Janus v. AFSCME, Council 31*, 585 U.S. 924 (2018).