



FAQ - Senate Bill 866 Public Employers Communications Regarding Employee Organizations and Agency Fees

As part of the 2018 State Budget, Governor Brown signed into law budget trailer bill SB 866. Senate Bill 866 is a response to the Supreme Court case *Janus v. AFSCME*. The Supreme Court's decision in *Janus v. AFSCME* overturned forty-plus years of case law that authorized mandatory union service fees in public sector employment. The Court's decision indicates that public employers and unions that represent public employees can no longer mandate as a condition of employment that employees pay a service fee for the portion of union dues for activities such as collective bargaining.

Senate Bill 866 both amends and creates new state law that:

- Shifts the administration of payroll deductions for membership in employee organizations from the employer to the employee organization.
- Prohibits public employers from deterring or discouraging public employees and applicants from becoming or remaining members of employee organizations.
- Makes the content of "mass communications" concerning the right of public employees to join an employee organization subject to collective bargaining. Under these provisions, if no agreement is reached and the employer sends out a mass communication, the employee organization would have the right to send out its own mass communication.
- Amends current law (AB 119) that requires public employers to provide employee organizations mandatory access to new employee orientations to further require that the date, time and place of new employee orientations be confidential and not shared with anyone other than employees, the employee organization which represents them, or a vendor that has been contracted to provide a service for the purposes of the orientation.

The following are some Frequently Asked Questions (FAQs) regarding SB 866:

When Does Senate Bill 866 Go Into Effect?

As a budget trailer bill, Senate Bill 866 is considered "urgency legislation." The bill therefore went into effect immediately upon the Governor's signature on June 27, 2018. Senate Bill 866 applies to all public agencies, though not all in the same manner. Provisions applicable to community college districts are codified in Education Code sections 87833 and 88167.

What should I do if an employee asks to discontinue the deduction of their union (employee organization) membership dues?

Community college district employers are required to direct employee requests to cancel or change authorizations for payroll dues deductions or other membership-related fees to the employee organization. Any response is limited to referring the employee back to the employee organization. Employee organizations are responsible for processing these requests.



How will a District know the status of an employee's membership?

Public employers are required to honor employee organization requests to deduct membership dues from their members' wages. Community college district employers must rely on an employee organization's certification that it has an employee's authorization for payroll deductions and are prohibited from requiring the employee organization to provide it with a copy of the employee's written authorization. An employer can only request a copy of the employee's written authorization if a dispute occurs about the existence or terms of the authorization. Employee organizations must indemnify employers for any claims challenging these deductions.

Additionally, community college district employers are required to rely on information provided by employee organizations regarding whether deductions for the organization have been properly canceled or changed. Also for note, college district employers are prohibited from informing employees about the cost of being a union member.

How is "Mass Communication" defined in Senate Bill 866?

In Senate Bill 866, "mass communication" means a written document, including email, communique, or script for an oral or recorded presentation or message, that is intended to be delivered to multiple public employees regarding an employee's right to join or support or not to join or not to support an employee organization.

A District that chooses to send mass communications to their employees or applicants regarding the right to "join or support an employee organization, or to refrain from joining or supporting an employee organization" must first meet and confer with the union (exclusive representative) about the content of the mass communication. If the employer and exclusive representative do not come to an agreement about the content of the communication, the employer can still choose to send its own communication but must also include a communication of reasonable length provided by the exclusive representative.

Can I share information about Employee Orientations?

Senate Bill 866 requires that new employee orientations be confidential. In addition to existing requirements in AB 119 that provides exclusive representatives with mandatory access to new employee orientations, the "date, time, and place of the orientation shall not be disclosed to anyone other than the employees, the exclusive representative, or a vendor that is contracted to provide services for the purposes of the orientation."

If you have additional questions, or would like a referral for more information, please contact Lizette Navarette, Vice President, at lizette@ccleague.org.

Sources:

Leg Info: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB866; LCW; Chancellor's Office for California Community Colleges.