

**UHPA Report to Faculty Senate
23 March 2018
Submitted by David Tsugawa**

1. EUTF Report: Our health plan benefits have changed slightly, but overall look solid. Open enrollment starts 4/2 and ends 4/30 in case anyone wants to make changes to their plans. You can find more information at www.eutf.hawaii.gov. I am waiting to get a PPT that reviews the changes and benefits of our health plan - will forward to you all when I get it.

2. SCOTUS began hearing the Janus case this week. There was a BOD meeting this past Saturday, and the UHPA Executive Staff reported that the state of Hawaii legislature is aware of the ramifications if Janus wins, and that the legislature will most likely respond in favor of unions. BOD member Nani Azman from UH Maui College posted the following to UHPA BOD members (Please read to understand the basics of the case! **My commentary in red**):

Q: What is the case about?

Some public employees argue that agency fees are unconstitutional. They feel if they don't agree with the union's position on issues or at the bargaining table their freedom of speech is being violated with their fees. This is consistent with previous decisions that say money is speech. **In a nutshell, big business is trying to destroy unions in this country, not just for us.**

Q: What will happen if the Supreme Court rules against the union?

If the Court agrees with Mark Janus, then there will be an end to agency shop. That will mean those in a bargaining unit can choose to be a member or non-member. Non-members will not have to pay anything. If a great number of members choose to leave the union and pay nothing towards representation there will be a loss of bargaining power, union services and the potential that the employer could decertify the union. **Loss of union dues will mean loss of union strength and therefore representation.**

***** What we lose without our union: Ability to negotiate our salary and benefits, including retirement and health benefits; protection from unfair labor practices by UH; protection of the tenure system; protection of intellectual property rights of faculty; ability to strike in case of end-of-the-world scenarios...**

Q: Why would we have to represent workers who don't pay anything?

Law, supported by court cases, makes a balance between "exclusive bargaining agent" rights and the obligation to represent all workers (members and non-members) in a bargaining unit. When a group of workers come together to form a Union to improve working conditions, the Union formed represents those workers exclusively – no other union is permitted to represent that group of workers at the same time. Therefore the Union is obligated to represent all the workers within the bargaining unit. Without exclusive representation, there could be multiple unions representing workers in the same workplace holding the same titles. Not only would such an arrangement be inefficient, it would pit unions against one another instead of against the boss, and it

would erode the union's bargaining power, resulting in weaker contract and less benefits.

Q: Is there a way to appeal or pass state legislation to get around the decision?

The Supreme Court is the end of the road for appeals. Once having a case in front of them their decision is final. If they decide agency shop fees are unconstitutional there is no state law that could replace that process as it currently exists. Supreme Court Justices are appointed by the President and approved by Congress for life terms. They are not targets for lobbyists.

Q: When will there be a decision?

The Plaintiffs filed for Supreme Court review in June. The Court granted review following its September 25, 2017 conference. Thereafter, oral arguments will be held and **a decision should be issued in or around the end of June 2018.**

Q: When would the impact of the decision take effect?

Because the question in this case is about constitutionality, any changes to the current laws and procedures would occur immediately.

If you have questions, let me know.

3. The UHPA Financial Report and Summary were given. If you want details, please contact me via your personal email to mine (dtsugawa@cruzers.com), and I will get back to you with more details.