

# Florida Voters Want to Protect Public Employees' First Amendment Rights

79 percent of Florida voters **support** informing public employees of their newly-affirmed constitutional rights from *Janus v. AFSCME*



**WORKERS FOR  
OPPORTUNITY**





**In 2018, the United States Supreme Court ruled in “Janus versus AFSCME” that government workers have a First Amendment right to choose whether or not to pay a union. It also ruled that government workers are entitled to their full paycheck unless they opt-in to having their money go to a political organization like a union. Have you heard about this Supreme Court decision?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Yes	<b>36.3%</b>	Yes	<b>39.4%</b>	<b>32.2%</b>	<b>37.0%</b>	Yes	<b>46.1%</b>
No	<b>57.8%</b>	No	<b>54.0%</b>	<b>62.8%</b>	<b>57.1%</b>	No	<b>45.7%</b>
Unsure	<b>5.9%</b>	Unsure	<b>6.7%</b>	<b>5.0%</b>	<b>5.9%</b>	Unsure	<b>8.2%</b>

**The Supreme Court decided that individual government workers have a right to decide whether to join or pay a union.**

**Do you support or oppose this position?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>61.2%</b>	Support	<b>70.5%</b>	<b>52.4%</b>	<b>59.8%</b>	Support	<b>53.0%</b>
Oppose	<b>16.1%</b>	Oppose	<b>10.3%</b>	<b>26.2%</b>	<b>12.4%</b>	Oppose	<b>22.5%</b>
Unsure	<b>22.7%</b>	Unsure	<b>19.1%</b>	<b>21.5%</b>	<b>27.8%</b>	Unsure	<b>24.5%</b>

**The Supreme Court decided that government workers cannot be forced to pay money to a union.**

**Do you support or oppose this position?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>67.8%</b>	Support	<b>81.2%</b>	<b>57.8%</b>	<b>62.8%</b>	Support	<b>55.2%</b>
Oppose	<b>14.9%</b>	Oppose	<b>7.0%</b>	<b>24.4%</b>	<b>14.1%</b>	Oppose	<b>27.5%</b>
Unsure	<b>17.3%</b>	Unsure	<b>11.7%</b>	<b>17.8%</b>	<b>23.1%</b>	Unsure	<b>17.4%</b>

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**The Supreme Court decided that government must get a government worker's permission to deduct union dues from their paycheck.**

**Do you support or oppose this position?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>71.7%</b>	Support	<b>81.8%</b>	<b>58.8%</b>	<b>73.4%</b>	Support	<b>63.1%</b>
Oppose	<b>15.3%</b>	Oppose	<b>8.3%</b>	<b>29.4%</b>	<b>9.0%</b>	Oppose	<b>25.2%</b>
Unsure	<b>13.0%</b>	Unsure	<b>9.9%</b>	<b>11.8%</b>	<b>17.6%</b>	Unsure	<b>11.7%</b>

**If a government worker was not properly informed of their right to refrain from union membership, would you support or oppose giving them a chance to make a fresh decision after being properly informed of their rights?**

		By party identification			Public sector union households		
		Republican	Democrat	Independent			
<b>All voters</b>		Support	<b>79.0%</b>	Oppose	<b>7.9%</b>	Unsure	<b>13.1%</b>
Support	<b>82.6%</b>	76.0%	78.1%	Support	<b>75.1%</b>		
Oppose	<b>5.4%</b>	11.3%	7.4%	Oppose	<b>10.3%</b>		
Unsure	<b>12.0%</b>	12.7%	14.5%	Unsure	<b>14.5%</b>		

**Do you agree or disagree that a government worker's decision to join or financially support a union is an important and personal one?**

		By party identification			Public sector union households		
		Republican	Democrat	Independent			
<b>All voters</b>		Agree	<b>77.7%</b>	Disagree	<b>12.6%</b>	Unsure	<b>9.8%</b>
Agree	<b>80.8%</b>	75.0%	76.9%	Agree	<b>70.8%</b>		
Disagree	<b>10.7%</b>	16.3%	10.9%	Disagree	<b>19.6%</b>		
Unsure	<b>8.5%</b>	8.8%	12.2%	Unsure	<b>9.6%</b>		

**Would you support or oppose government administrators  
expending time, effort and resources to protect the  
constitutional rights of Floridians?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>	
		Republican	Democrat	Independent		
Support	<b>73.1%</b>	Support <b>77.5%</b>	Support <b>69.4%</b>	Support <b>71.9%</b>	Support	<b>64.6%</b>
Oppose	<b>8.1%</b>	Oppose <b>6.5%</b>	Oppose <b>10.4%</b>	Oppose <b>7.7%</b>	Oppose	<b>9.2%</b>
Unsure	<b>18.8%</b>	Unsure <b>16.0%</b>	Unsure <b>20.1%</b>	Unsure <b>20.5%</b>	Unsure	<b>26.2%</b>

**Would you support or oppose having the Florida governor faithfully  
implement the Supreme Court’s ruling by making sure that there is  
evidence that unionized government workers have signed a consent form  
to waive their constitutional rights and agree to pay the union?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>	
		Republican	Democrat	Independent		
Support	<b>58.9%</b>	Support <b>65.6%</b>	Support <b>49.6%</b>	Support <b>60.8%</b>	Support	<b>50.4%</b>
Oppose	<b>20.4%</b>	Oppose <b>12.3%</b>	Oppose <b>27.8%</b>	Oppose <b>22.1%</b>	Oppose	<b>34.6%</b>
Unsure	<b>20.7%</b>	Unsure <b>22.1%</b>	Unsure <b>22.6%</b>	Unsure <b>17.1%</b>	Unsure	<b>15.1%</b>

**Would you support or oppose having the Florida Attorney General faithfully implement the Supreme Court’s ruling by making sure that there is evidence that unionized government workers have signed a consent form to waive their constitutional rights and agree to pay the union?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>60.1%</b>	Support	<b>69.3%</b>	<b>49.9%</b>	<b>60.3%</b>	Support	<b>48.4%</b>
Oppose	<b>21.7%</b>	Oppose	<b>11.5%</b>	<b>33.4%</b>	<b>21.3%</b>	Oppose	<b>34.8%</b>
Unsure	<b>18.2%</b>	Unsure	<b>19.3%</b>	<b>16.7%</b>	<b>18.4%</b>	Unsure	<b>16.8%</b>

**Would you support or oppose having your state legislators bring Florida in compliance with the Supreme Court’s ruling by passing a law to make sure there is evidence that unionized government workers have signed a consent form to waive their constitutional rights and agree to pay the union?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>59.4%</b>	Support	<b>68.7%</b>	<b>50.3%</b>	<b>58.2%</b>	Support	<b>45.4%</b>
Oppose	<b>21.4%</b>	Oppose	<b>11.2%</b>	<b>32.6%</b>	<b>21.3%</b>	Oppose	<b>35.6%</b>
Unsure	<b>19.2%</b>	Unsure	<b>20.1%</b>	<b>17.1%</b>	<b>20.5%</b>	Unsure	<b>19.0%</b>

**Would you support or oppose having counties, municipal governments, and school boards faithfully implement the Supreme Court’s ruling by making sure that there is evidence that unionized government workers have signed a consent form to waive their constitutional rights and agree to pay the union?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>58.5%</b>	Support	<b>67.1%</b>	<b>49.4%</b>	<b>58.1%</b>	Support	<b>50.7%</b>
Oppose	<b>22.8%</b>	Oppose	<b>13.5%</b>	<b>32.7%</b>	<b>23.2%</b>	Oppose	<b>34.7%</b>
Unsure	<b>18.7%</b>	Unsure	<b>19.4%</b>	<b>17.9%</b>	<b>18.7%</b>	Unsure	<b>14.6%</b>

**Recently a new law went into effect that gives teachers the opportunity to have an election to keep or remove the union at their workplace if less than 50 percent of teachers are members of the union.**

**Do you support or oppose the new law?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>55.1%</b>	Support	<b>62.5%</b>	<b>46.3%</b>	<b>55.7%</b>	Support	<b>45.6%</b>
Oppose	<b>20.1%</b>	Oppose	<b>12.3%</b>	<b>28.0%</b>	<b>20.7%</b>	Oppose	<b>28.4%</b>
Unsure	<b>24.8%</b>	Unsure	<b>25.2%</b>	<b>25.7%</b>	<b>23.6%</b>	Unsure	<b>25.9%</b>



**Florida’s Public Employees Relations Commission administers these recertification elections. Should PERC issue rules to make sure unions are accurately reporting their membership numbers and uphold the integrity of the elections?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Should Issue Rules	<b>55.2%</b>	Should Issue Rules	<b>60.9%</b>	<b>48.9%</b>	<b>55.2%</b>	Should Issue Rules	<b>51.0%</b>
Should Not Issue Rules	<b>16.4%</b>	Should Not Issue Rules	<b>10.4%</b>	<b>22.3%</b>	<b>17.0%</b>	Should Not Issue Rules	<b>21.1%</b>
Unsure	<b>28.4%</b>	Unsure	<b>28.8%</b>	<b>28.8%</b>	<b>27.8%</b>	Unsure	<b>28.0%</b>

**The law allowing union recertification elections if membership drops below 50 percent currently only applies to teachers. Would you support giving other public employees in Florida the same rights as teachers?**

<b>All voters</b>		<b>By party identification</b>			<b>Public sector union households</b>		
		Republican	Democrat	Independent			
Support	<b>61.5%</b>	Support	<b>68.9%</b>	<b>51.1%</b>	<b>63.6%</b>	Support	<b>52.1%</b>
Oppose	<b>16.6%</b>	Oppose	<b>11.7%</b>	<b>28.2%</b>	<b>10.3%</b>	Oppose	<b>23.3%</b>
Unsure	<b>22.0%</b>	Unsure	<b>19.4%</b>	<b>20.7%</b>	<b>26.1%</b>	Unsure	<b>24.6%</b>

# Demographics

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**With which political party do you most identify?**

**All voters**

Republican	<b>35.5%</b>
Democrat	<b>32.3%</b>
Independent	<b>32.2%</b>

**What is your age?**

**All voters**

18-44	<b>32.2%</b>
45-64	<b>38.6%</b>
65+	<b>29.2%</b>

**What is your gender?**

**All voters**

Male	<b>46.8%</b>
Female	<b>53.2%</b>

**Are you or another member of your immediate family represented by a public sector union?**

**All voters**

Yes	<b>11.8%</b>
No	<b>88.2%</b>

# Methodology

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Results for this poll are based on automated telephone interviews conducted among a statewide sample of 502 likely voters. Data for this survey research was collected by Cor Strategies Inc.

Interviews were conducted via a computer-assisted telephone interviewing system utilizing techniques designed to achieve the highest possible respondent cooperation. The surveys were conducted October 8-10, 2019.

The margin of sampling error is plus or minus 4.37 percentage points. The margin of sampling error may be higher for certain subgroups. Results presented may not always appear to total 100 percent due to rounding.

Data was sampled using weighted demographic information from the U.S. Census Bureau's Current Population Survey Voting and Registration Supplement and state election authorities. Demographic information for actual voters in past elections were used to construct sample target weights.

*The James Madison Institute paid for all costs associated with this survey.*

# Complying with the *Janus* Decision

A GUIDE FOR STATE PUBLIC OFFICIALS

## THE RULING

On June 27, 2018, the Supreme Court of the United States ruled in *Janus v. AFSCME* that the collection of agency fees from public employees was an unconstitutional violation of their First Amendment rights and should cease immediately.

**The court also held that employers need affirmative consent to collect dues from union members.**

**“Neither 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.”**

— *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448, 2486 (2018)

## THE PROBLEM

Although many public employers have stopped collecting agency fees, they continue to collect union dues from employees who have not given affirmative consent or opted-in to union membership post-*Janus*.

**Union dues are being improperly collected in violation of the U.S. Constitution.**

## THE SOLUTION

Government officials must stop collecting union dues from public sector employees until they have opted in to union membership and given affirmative consent for dues collection.

Affirmative consent must be dated after June 27, 2018 — the date of the *Janus* ruling. Workers could not waive constitutional rights they did not know they had, and their First Amendment rights must be protected. This is particularly pertinent in states without public sector right-to-work laws, as workers faced a compelled choice between union dues or agency fees.

States that had public sector employee right-to-work laws before *Janus*, should, at the very least, have evidence from employees of their choice to join or decline to join a union, dated after the date right-to-work for public sector employees was implemented.

### CONSENT OPTIONS

An opt-in form may be provided to employees either online or in a paper form. To ensure that consent is freely given, union involvement in the distribution and collection process should be limited and forms should, therefore, be collected from the employee and verified by the employer directly.

### CONSENT REQUIREMENTS

Consent may not be presumed and must be given freely and knowingly, and shown by clear and compelling evidence. As the ruling stated in its waiver requirement for non-members:

*"[T]o be effective, the waiver must be freely given and shown by 'clear and compelling' evidence."*

### EVERYONE WINS

Affirmative consent for union dues honors the court's *Janus* decision, promotes worker freedom, and ensures constitutional protections and liberties are promoted.

For more information, contact **Workers for Opportunity** at the Mackinac Center for Public Policy by calling **989-631-0900** or emailing **[info@workersforopportunity.org](mailto:info@workersforopportunity.org)**.







**WORKERS FOR  
OPPORTUNITY**

**Workers for Opportunity** works alongside coalition partners, lawmakers, administrations and other state stakeholders to advance workplace freedom for employees across the country by promoting meaningful and forward-thinking post-Janus labor reform policies anchored by key policy principles.



The **James Madison Institute** strives to advance public policy solutions that provide the citizens of Florida greater access to economic opportunities in pursuit of the lives they desire.