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**Senior Comps**  
**Class of 2023**

- I. Abstract.....3
- II. Introduction.....4
- III. Literature Review.....6
  - A. Defining labor unions and their opponents.....7
  - B. Dues and the “free rider” problem.....7
  - C. The right-to-work movement.....8
  - D. Right-to-work’s racist beginning.....9
  - E. Right-to-work’s growth and impact on unions.....10
  - F. Right-to-work organizations lay the foundation for *Janus v. AFSCME*.....12
  - G. Friedrichs v. CTA.....14
  - H. *Janus v. AFSCME*’s results failed to meet expectations.....15
  - I. Gaps in the understanding of union and right to work strategies.....17
- IV. Research Methods.....19
  - A. Organizational health and document analysis.....20
  - B. Semi-structured interviews.....21
    - 1. Interview Subjects.....22
- V. Findings and Analysis.....22
  - A. CFT has maintained healthy finances and membership numbers.....22
    - 1. CFT Finances.....23
    - 2. CFT Members.....24
  - B. Right-to-work group finances.....26
  - C. SPN strategically funded its affiliates to build an opt-out campaign made possible by the *Janus* decision.....30
  - D. Interview findings.....33
  - E. Right-to-work groups seek to frame unions as greedy, out-of-touch and overly influential.....33
  - F. Right-to-work groups work closely with each other to encourage teachers to opt-out of their unions.....35
  - G. Right-to-work groups seek to undermine public schools.....37
  - H. Right-to-work group interview coding .....38
  - I. Antonin Scalia’s death gave CFT more time to prepare for the impact of *Janus v. AFSCME*.....40
  - J. Personal relationships with members, member activism and member leadership are foundational to and result from good organizing.....41
  - K. Teachers strong values clash with the ideology of right-to-work groups.....43

	L. Loss of adjunct faculty jobs, attrition from the profession and attacks on public schools are a challenge for CFT.....	44
	M. CFT Interview coding.....	45
VI.	Recommendations.....	49
	A. Unions should cut unnecessary expenses wherever possible and redirect funds to organizing and member empowerment.....	49
	B. Empowered members can fill roles traditionally held by staff—a practice that will save money and build rank-and-file leadership.....	50
	C. Public sector unions must ensure that their political activities are explicit in their support for the workplaces they represent.....	52
	D. Right-to-work groups cannot be ignored.....	53
VII.	Conclusion.....	55
	A. Limitations.....	56
	B. Next steps.....	57
VIII.	References.....	58
IX.	Appendices.....	66

## Abstract

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Public sector unions secure better wages, benefits and working conditions for their members and stabilize the workplaces they represent. Additionally, public sector unions use their members and funds collected through member dues to support favored political candidates and policies. Today, public sector unions are the largest institutional supporters of the Democratic Party—a fact that has made them the target of right-wing financed organizations. In 2018, public sector union financing was upended by the *Janus v. AFSCME* Supreme Court case. This landmark decision overturned prior precedent and eliminated public sector union’s financial security by outlawing mandatory collection of union dues in the public sector—a practice known as “right-to-work.” This report presents the findings of an organizational health analysis of the California Federation of Teachers and a series of interviews with the union’s leadership. Further, financial analysis of key anti-union organizations and interviews with their leadership shed light on the well-organized opposition that public sector unions face today.

This report finds that, although right-to-work organizations have gotten stronger since the *Janus* decision, the California Federation of Teachers has grown its membership and financial reserves and thus offers a unique opportunity to study public sector union success in the post-*Janus* era. Difficult financial decisions, a reorientation of members into new roles and a firm commitment to member-focused advocacy and organizing have all contributed to the union’s success. These findings have been integrated into a series of recommendations for public sector unions intended to increase their efficacy on behalf of the workers they represent.

# Is this the end of public sector unions in America or a new beginning? A Case Study of the California Federation of Teachers

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## Introduction

In 2018, the Supreme Court ruled 5-4 in favor of an Illinois child care specialist who had sued his union over his obligation to pay dues. The decision in *Janus v. AFSCME* was unique in that it overturned the precedent set by *Abood v. Detroit Board of Education* in 1977. *Abood* found that public sector unions could collect mandatory dues to cover the cost of representational activities—a practice that was central to union financing for decades. As a result of *Janus*, public sector unions could no longer obligate dues collection from their members. Any worker could enjoy the benefits of a unionized workplace without paying a cent to the union that bargained for their pay, benefits and working conditions and lobbied on their behalf.

The court's conservative majority argued that *Abood* failed to consider that union activities are inherently political. Mandatory dues collection violated the first amendment because workers could be forced to pay for speech that they didn't believe in. From their perspective, the alleged encroachment on free speech that *Abood* made possible merited reconsideration even though the issue had been settled law for 41 years.

Prior to *Janus*, just 146 of the 25,000-plus decisions delivered since the court's inception in 1789 had been overturned. This fact gave the courts liberal justice cause for concern: (constitution.gov) Elena Kagan, who wrote the dissenting opinion in *Janus*, wondered “When have we ever done something like [this]? What would be the justification for doing something like [this]?” (*Janus v. AFSCME* pp. 22)

While Justice Kagan's first question may have been more rhetorical than not—she was certainly well-aware of the courts overwhelming respect for prior precedent—her second question is more readily answered.

*Janus* disrupted the entire public sector labor movement—the single largest institutional source of campaign financing for the Democratic party. Union contributions to Democratic campaigns in presidential election

years and midterms have increased every year for which there is available data. In the 2020 election cycle, union contributions totaled nearly \$260 million (OpenSecrets). In addition to their financial support of favored candidates, unions frequently mobilize their members and organizers to phone bank and door knock—a benefit exclusive to Democratic campaigns that has proved to be decisive in close races (Saksa 2022).

*Janus* wouldn't only make unions and Democrats more vulnerable, though. It also brought every publicly held workplace from schools to government services closer to privatization and endangered millions of public sector union jobs that have historically been most resistant to de-unionization efforts. Taken within the context of the American labor movement's steady decline over the last several decades, *Janus* represented a potential death blow to public sector unions in the eyes of people on both sides of the political spectrum.

National union density peaked at 35% in 1954 and has declined every single year since 1983 (when 20% of the workforce was unionized) to just under 10% today. However, this decline has played out differently between the public and private sector: 37% of public sector workers currently claim union membership while slightly more than 6% of private sector workers can say the same. Before *Janus*, public sector unions were insulated from many of the forces responsible for the loss of union density in the private sector.

Over the last 50 years, a litany of anti-union laws, explicit campaigns to deunionize workplaces and strong opposition from employers to new organizing decimated private sector unions' finances and membership. "Structural weaknesses" in the National Labor Relations Act and the passage of the Taft-Hartley amendment (which initially legalized bans on mandatory union dues collection in the private sector) enabled employers to meddle in union elections (Mishel, Rhinehart and Windham 2020).

This has been unequivocally bad for workers. Unionized workers earn 11% more than non-unionized workers with similar experience in a similar industry, on average. The boost in pay is even greater for Black and Hispanic workers who earn 13% and 20% more on average, respectively. In addition to better pay, unionized workers are more likely to have comprehensive benefits and retirement plans and have significantly increased protection from firing and discipline in the workplace (McNicholas et al 2020). Union density in the public sector closes the pay gap between public and private workplaces, too. This is especially important for Black workers and women, who are highly overrepresented in public sector jobs. (Morrissey and Sherer 2022)

Despite these facts, the opportunity for conservatives to upend the most important backer of Democratic campaigns was extremely enticing. The *Janus* decision didn't just allow workers to opt-out of mandatory dues payment: it created an opportunity for organizations financed by powerful conservative interests to launch campaigns intended to get as many public sector workers to leave their unions as possible.

Organizations such as the Freedom Foundation and the Mackinac Public Policy center ran campaigns with catchy names like “My pay, my say” and “Opt-out Today” to explicitly encourage workers to leave their unions (Kamenetz 2018). The outlook for public sector unions was not good. From the pages of the New York Times and The Atlantic to the news desks of Fox and CNN, the common refrain was that public sector unions had been dealt a potentially mortal wound (Alana 2018; Liptak 2017; deVogue and Foran 2018; Kovacs 2018;).

Contrary to the belief of the mainstream media, public sector unions have not been eliminated in the four years since *Janus* was decided nor does it appear that such a fate will befall them any time soon. Many unions have lost members and revenues—some in significant numbers—and some have not (Herbert 2019 162-73).

This is a critical moment for organized labor. If unions and the significant benefits they bring to working people are to persist, allies of organized labor need to understand how and why some unions have exceeded expectations in the face of significant opposition. This project interrogates the tactical and strategic decisions made by one of the most successful public sector unions in the post-*Janus* era—the California Federation of Teachers—and a selection of leading anti-union organizations.

This paper's literature review presents a summary of the anti-union “right-to-work” movement that launched *Janus* and a history and analysis of the case itself and its key figures. Through analyses of tax returns, audits, union executive board meeting minutes and a series of interviews with key individuals in the California Federation of Teachers and the right-to-work movement, this research exposes the highly coordinated network organized against public sector unions and the tactical and strategic actions the California Federation of Teachers took in response. Finally, this paper presents a series of recommendations for public sector unions based on the California Federation of Teachers experiences that chart a course forward in a post-*Janus* world.

## Literature Review

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### Defining labor unions and their opponents

At its core, a labor union is an organization of two or more workers that collectively organize in order to better the conditions of their employment. Through the formation of an organization by and for workers of a particular trade, union members are better able to exert their power as workers over an employer, a sector of the economy or political leaders (U.S. Department of Labor). Because American unions are by law inherently democratic organizations, leadership positions in the national organization and local chapters are elected by the union's membership. Most unions hire organizers, negotiators, researchers, lawyers and lobbyists to grow the union's membership, identify current and future threats to the workers they represent, protect members from unwarranted hazards or discipline at work and advance the political interests of their membership. In addition, the organization will often provide job training programs and infrastructure to support member's healthcare and pension plans.

Changes in wages, benefits and working conditions and the increased worker autonomy that comes from unionization has set many businesses against labor unions (Bruner 2022). For the most part, employers have scaled back the explicitly violent tactics used to quell labor organizing in the late 1800's and early 1900's and replaced them with a cottage industry of union-busting law firms. These firms collect hundreds of millions of dollars annually from employers who receive legal advice, "union avoidance" consulting and preemptive "union vulnerability tests" among other products in exchange for their money (Gurley 2019). An expansive network of think tanks complement the efforts of union-busting law firms by providing the "intellectual ammunition" for anti-union interests. These groups identified Mark Janus—the plaintiff in *Janus v. AFSCME*—and helped shepherd the lawsuit from its beginnings in Illinois all the way to the Supreme Court. Along the way they developed a pro-right-to-work public narrative through op-eds, policy papers, media appearances and advertising campaigns that focused on the unconstitutionality of mandatory union dues collection in the public sector.

## Dues and the “free rider” problem

In order to support its activities and pay staff a union collects “dues” from its members. The percentage of a member’s paycheck that goes to the union depends on the state they work in, their job and the union that represents them, but usually is equivalent to 2-2.5 hours out of each pay period or 1-2% of the total an employee earns (United Auto Workers). Opponents of organized labor have often cited dues as reasons for workers to vote against unions in union elections (Maryville University 2022; Keller 2016). While there is overwhelming evidence that a union contract increases wages for employees, employers and right-to-work advocates frequently claim that employees could ultimately lose money through union dues (Keller 2016). This is technically possible, but because workers must ratify the contracts that dictate the terms of their employment, a situation in which workers would ratify a contract that would cause them to lose money is extremely unlikely (United Food and Commercial Workers 2021). However, in many locations workers in unionized workplaces are not required to pay full or partial dues even though they may benefit from the collective bargaining agreement negotiated by the union that represents them. Like people who litter in public parks or roommates who don’t do their dishes, these “free riders” do not contribute to the costs of benefits that they enjoy.

The “free rider” problem has increased in severity for the labor movement since the end of World War II. Prior to the 1947 passage of the Taft-Hartley act some unions negotiated “closed shop” agreements that required employers to only hire members of the union and thus ensured consistent revenue streams from unionized workplaces. Collective bargaining agreements also commonly included “union security agreements” that required employees in a unionized workplace to join a union or cover the costs of representation if they did not wish to join the union (National Labor Relations Board 2022). Closed shop and union security agreements grew the labor movement between 1937 and 1947 (Troy 1965). Economic inequality reached its lowest levels in American history, largely because of the middle class jobs that a strong labor movement fostered, especially after World War II (Bartels 2004).

## The Right-to-work movement

After unions used their significant growth in members and power between 1937 and 1947 to orchestrate the largest strikes in American history, the Republican controlled congress moved to curtail the power of the labor movement (Brecher 2009). With moderate bipartisan support, congress overrode Harry Truman’s veto to pass



the Taft-Hartley act. Taft-Hartley, which Truman described as “a dangerous intrusion on free speech” (Neuborne, Burt and Abrams 2015) and a “slave labor bill” (Mineshema-Lowe 2009) significantly amended the National Labor Relations Act (NLRA). While the NLRA focused on employer conduct and the rights of workers to form organizations and collectively bargain, Taft-Hartley restricted union conduct. Six new unfair labor practices intended to regulate union activity were introduced alongside limits on union dues and initiation fees. Most importantly, states were given the ability to pass laws to outlaw union security clauses (National Labor Relations Board 2022). These laws are known today as “right-to-work” laws.

## Right-to-work’s racist beginning

The term “right-to-work” was coined in a 1941 labor day editorial by Dallas Morning News reporter William Ruggles (Perry 2014). Ruggles convinced conservative businessman Vance Muse that bans on union security agreements were the best way to limit the power of the labor movement. Muse—who described himself as “a Southerner and for white supremacy”—saw efforts by the federation of labor unions then known as the Congress of Industrial Organizations to organize southern sharecroppers as a direct threat to the white supremacist status quo of the south. He enlisted the far-right Christian American Association and other southern conservative groups “to help break the ‘stranglehold radical labor has on our government’ through the enactment of anti-union laws (Pierce 2018).” While right-to-work initially faced opposition, Muse and the Christian American Association had success with anti-strike laws intended to “quell disturbances and keep the color line drawn in our social affairs.”

These laws—and the appreciation that southern business owners had for Muse’s work—laid the foundation for the first right-to-work campaigns. In what would become a common theme in anti-union legislative campaigns, Muse found corporate backers in General Motors and the du Pont family (Kaufman 2015). In 1944, initiatives to enact the first right-to-work laws were put on the ballot in Arkansas, California and Florida. Muse and the Christian American Association supported the California and Florida measures and were the primary force behind the Arkansas right-to-work campaign. Their strategy relied mostly on the claim that right-to-work was necessary to keep workplaces segregated. Campaign literature from the Christian American Association and its allies relied heavily on racism and antisemitism. One mailer claimed that “white women and white men will be forced into organizations with black African apes... whom they will have to call ‘brother’ or lose their jobs

(Pierce 2018).” The California amendment failed, but both Florida and Arkansas—where Black citizens were largely disenfranchised at the time—voted in the first right-to-work laws in 1944 (Ballotpedia).

## Right-to-work’s growth and impact on unions

Arizona and Nebraska passed right-to-work laws through constitutional amendment in 1946. After Taft-Hartley’s passage the next year, Tennessee, North Carolina, Georgia, Iowa, Texas, and North Dakota all passed right-to-work measures by state statute, while South Dakota passed right-to-work through a constitutional amendment. The rest of the south followed suit throughout the 70’s and 80’s, along with some western states. Recently, several midwestern states that have been traditional union strongholds have passed right-to-work too. The content of these laws was basically identical in that they outlawed union security clauses. However, laws passed by ballot initiative are significantly more difficult to overturn at a later date than laws passed through state statute as they enshrine right-to-work in a state’s constitution. As right-to-work laws passed through ballot initiatives are more difficult to undo, this pathway has greater appeal to opponents of organized labor.

Today, 27 states and the territory of Guam have passed right-to-work laws. Michigan—known to many as the “birthplace of organized labor” in the US due to its association with the heavily unionized auto industry—passed right to work in 2012 (Skorup 2021). Wisconsin, another historically union-dense state, passed right-to-work in 2015. After the passage of right to work in Michigan, the state’s union density began to decline more significantly relative to other states. While Michigan was the fifth most union dense state in the country in 2012 it has fallen to 12th today (Skorup 2021).

Despite the clear declines in union density seen after the passage of right to work, the measure’s specific impacts have been hard to quantify. Fortin et al described how “one challenge with studying the impact of RTW laws is that most RTW states adopted these laws in the late 1940s, making it hard to distinguish the effect of RTW from other underlying state differences when using recent data (Fortin, Lemieux and Lloyd 2022).” Other recent anti-union developments have also obscured the specific impact of right-to-work. Since the 1980’s, many employers have become more aggressively anti-union when organizing campaigns crop up in their workplaces (Lafer and Loustaunau 2020). By and large, the National Labor Relations Board (NLRB) and the laws it is supposed to uphold are woefully under equipped to hold firms accountable for labor law violations. Even when

firms are held to account, the penalties are often so insignificant that they are simply taken as a cost of doing business (Mishel, Rhinehart and Windham 2020). The various legal and illegal strategies employers have used to combat unionization make for a hazy picture of the effects of right-to-work in relation to other factors. However, the right-to-work measures that were recently passed in Michigan, Wisconsin and three other states between 2011 and 2017 offered an opportunity “to isolate the effect of RTW laws after controlling for state effects and other characteristics of workers” (Fortin, Lemieux and Lloyd 2022) without the context of other anti-union practices to take into account.

Ichniowski and Zax identified that right-to-work, in conjunction with other anti-union measures, had a significant impact on public sector union density. Their study showed that slower public sector union growth in the 1970’s and 80’s in right-to-work states was not a result of anti-union sentiment but could be attributed to the “free rider” problem made possible by right-to-work laws (Ichniowski and Zax 1991 255-60).

Fortin et al expanded on these findings in *Right to Work laws, Unionization, and Wage Setting*, which included both public and private sector responses to right-to-work laws and used an event study design to analyze their effects in the five states that have passed measures since 2011. Their regression analysis of union density in states without right-to-work on states with right-to-work resulted in a slope coefficient of 2, meaning that “on average, unionization rates are roughly twice as large in non-RTW than in RTW states (Fortin, Lemieux and Lloyd 2022).” However, Fortin et al and others have identified significant discrepancies that indicate that the impact of right-to-work is not uniform between the public and private sector or across industries. This led the authors to group industries into three groups:

The “high unionization” industry group consists of industries (construction, education, and public administration) where the unionization rate is high, and RTW laws substantially reduce unionization. The “mid-unionization” group comprises industries (manufacturing, health, transportation & utilities) that are close to average in terms of unionization rates and RTW impacts. Finally, the “low-unionization” group consists of the remaining industries where the unionization rate tends to be low in RTW and non-RTW states (Fortin, Lemieux and Lloyd 2022).

The differentiation between public and private sector union density is an important consideration that was absent from previous inquiries into right-to-work. Public sector unions have not had to contend with the

increasingly anti-union employer attitudes and economy-wide shifts in the kinds of jobs that are available to workers that have plagued private sector unions (Lafer and Loustaunau 2020).

Public sector jobs, the vast majority of which fall under “education” or “public administration,” exist for the most part in the “high unionization” section of Fortin et al’s groupings of industries. These are “stable” workforces that have not experienced as severe of a long-term decline in union density as private sector workforces. While just 7% of private sector workers belong to a union, nearly 70% of public school teachers are union members and the public sector on the whole is over 33% unionized (Bureau of Labor Statistics 2022; National Center for Education Statistics 2016).

Although the stability of public sector workforces means that they are more resilient to anti-union practices than private sector workforces, Fortin et al found that this *does not* hold true in states that have passed right-to-work legislation since 2010 (Fortin, Lemieux and Lloyd 2022). Mid and low unionization industries, unlike high unionization industries, “do not show an unusual drop in unionization among RTW adopters relative to states where RTW laws remained stable over time (Fortin, Lemieux and Lloyd 2022).” In the private sector, employers can take advantage of a comparatively less stable workforce in a way that is impossible for public sector workforces. Private sector firms can manipulate the sizes of bargaining units<sup>1</sup> to favor a vote against unionization in union elections. While technically illegal, firms often shutter workplaces that have unionized to quell rising union sentiment. Starbucks has notably employed this tactic against recently unionized stores, (Wiener-Bronner 2022) but it is far from alone: employers are charged with violating federal law in 41.5% of all union elections (McNicholas et al).

These strategies are not possible in public sector workplaces—such as schools and government offices— that can’t be closed or restructured on a whim. Anti-union interests have fewer tools at their disposal to eliminate public sector unions, so they’ve turned to right-to-work laws and amplified their effect with campaigns to encourage union members to opt-out of dues payment.

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<sup>1</sup> Employers manipulate the size of bargaining units by redefining employees as managers (which makes them ineligible to participate in an union election) and by claiming that many more workers are eligible for inclusion in the bargaining unit than initially anticipated (which waters down union support).

## Right-to-work organizations lay the foundation for *Janus v. AFSCME*

The *Janus v. AFSCME* Supreme Court decision realized a conservative dream of a national ban on union security clauses and the possibility of opt-out campaigns targeting public sector unions. A judicial development of this scale demanded an expansive research, policy and organizing strategy from conservative think tanks and business interests that was honed in the state-level right-to-work campaigns that preceded *Janus*.

Recent right-to-work laws in the Midwest were carried through statehouses on the back of claims that they would bring more business to a state and lead to job growth. A recent study on the impacts of right-to-work prepared by West Virginia University found that states with right-to-work had more rapid employment and gross domestic product growth (Deskens, Bowen and Christiadi 2015). These claims have been contended by the Economic Policy Institute, which found that the WVU study did “not have sufficient variation in RTW status within states during the study period to support the strong causal claims it makes about RTW laws (Bivens, Gould and Kimball 2016).” Further, the WVU study authors wrongly categorized Texas and Utah’s right-to-work statuses over key time periods and failed to account for “state fixed effects,” or characteristics unique to specific states that are not controlled for elsewhere in their model<sup>2</sup> (Bivens, Gould and Kimball 2016).

The job growth that WVU linked to right-to-work has become a central pillar of political campaigns in states that recently passed right-to-work. Former Wisconsin governor Scott Walker rose to prominence in large part because of groundbreaking anti-union legislation that he sponsored (Kaufman 2015). Illinois’ Bruce Rauner used a similar anti-union, pro-job growth platform in his successful campaign for governor in 2014. Both governors followed through on their anti-union campaign promises to great effect; Wisconsin’s Act 10 eliminated most public employee collective bargaining rights (Kaufman 2015) even before right-to-work was passed. Rauner’s “Turnaround Agenda” prioritized a wide swath of anti-union measures, including a micro-right-to-work law that would allow cities and counties to enact right-to-work “zones (Cohen 2022).” The policy behind these campaigns, and much of the messaging that made them politically viable, came from a handful of conservative think tanks, many of which are industry aligned. Scott Walker has relied heavily on the

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<sup>2</sup> State fixed effects were an important consideration in the analysis of the impact of right-to-work laws on union density that was presented in *Right to Work laws, Unionization, and Wage Setting*.

American Legislative Exchange Council (ALEC), who wrote or significantly contributed language to dozens of bills that Walker later signed into law. Wisconsin's 2015 right-to-work bill was quite literally a word-for-word copy of an ALEC treatise.

Rauner was similarly influenced by conservative think tanks. The Associated Builders and Contractors (ABC), an industry group that represents construction interests, inspired Rauner's campaign against project labor agreements (Associated Builders and Contractors). The National Right to Work Committee has supported recent state-level campaigns like those in Wisconsin and Illinois, as well as a push for a national right-to-work act (National Right to Work Committee). Groups like ABC and the National Right to Work Committee provide the "intellectual ammunition" for conservative interests to make union security agreement reform a possibility (Sharp 2016).

On a national scale, these groups have been coordinated by the State Policy Network (SPN) which has conducted much of the national organizing strategy, event planning and communications work behind what they call a "breakthrough" campaign to "defund and defang" unions (Pilkington 2017). In total, SPN counts 69 state-based think tanks (such as ALEC) in its network. In 2016, leaked fundraising materials revealed a high degree of coordination between SPN—which boasted of "the remarkable Right-to-work victory our State Policy Network partners won in West Virginia"—and conservative politicians and campaign financiers (Pilkington 2017).

Rauner and the collection of anti-union think tanks that had provided much of his policy sought to bring a union security agreement lawsuit before the Supreme Court (Pearson 2015). A ruling in their favor would not only affirm that union security agreements in the public sector violated the first amendment, it would upend Democrats' most effective fundraising tool. Without mandatory dues, unions were sure to lose the revenue streams that have allowed them to become some of the Democratic party's most important financiers. Conservative interests were more than aware of this. SPN president Traci Sharp described one of the network's goals as "*permanently depriving* the Left from access to millions of dollars in dues extracted from unwilling union members every election cycle" through right-to-work campaigns (Sharp 2016).

## Friedrichs v. CTA

In 2016 SPN and their allies were nearly successful in their mission to end right-to-work in the public sector. Supported by lawyers, amicus curiae and courthouse rally-goers (and occasionally Grover Norquist masquerading as a schoolteacher) supplied by SPN and its allies, Rebecca Friedrichs, a California public school teacher, brought her lawsuit over compulsory union dues against the California Teachers Association all the way to the Supreme Court (Bottari 2018). If the case had been decided in Friedrich's favor—which many expected due to the court's conservative lean at the time—public employee unions would have to scramble to preserve members and make up for lost dues. Due to the death of Antonin Scalia (who had indicated in oral arguments that he would side with Friedrichs) the court deadlocked 4-4 (Fensterwald 2016). This resulted in a non-precedential ruling that allowed union security clauses to remain legal in California (and by proxy nationwide) (Ballotpedia).

*Friedrich's* was far from the only case SPN had queued up to challenge union security agreements and its proponents were determined that the *per curiam* decision delivered by the deadlocked court would be reheard (Liptak 2016). Immediately after Bruce Rauner's election in 2015, the then-governor sued the Illinois municipal employees union, AFSCME, in US District Court on the grounds that union security agreements were a violation of the first amendment (Epps 2015). Rauner was found to have no personal stake in the issue, but the case was allowed to continue when three public employees replaced Rauner as sole plaintiffs (Pearson 2015). From that point the case was known as *Janus v. AFSCME*. The lead plaintiff, a childcare specialist named Mark Janus, was backed by the Illinois Policy Center, a SPN affiliate that had contributed policy to Rauner's "Turnaround Agenda (Leonard 2017)." The National Right to Work Legal Defense Foundation (another SPN associated organization) also provided counsel for the plaintiffs.

## Janus v. AFSCME's results failed to meet expectations

Mark Janus filed for a writ of certiorari in the US Supreme Court in June of 2017 and in September of that year his request was granted with argument scheduled for early 2018. As in *Friedrichs*, the union was predicted to lose. After the 2017 appointment of Neil Gorsuch the Court's conservative majority had been restored which all but assured a *Janus* victory. Almost as certain as Janus's victory—at least according to the media—was the

financial decimation of unions in the public sector. The New York Times said the case would “deal a crushing blow to organized labor” (Liptak 2017) while the Atlantic wondered if it could be “the end of public sector unions in America (Semuels 2018).” In oral arguments, many of the court’s justices as well as lawyers for each side revealed similar sentiments. Justice Sonia Sotomayor remarked that the plaintiffs’ argument was to “basically... do away with unions,” (*Janus v. AFSCME* pp. 70) while justice Ruth Bader Ginsburg argued that right-to-work “drains [the unions] of resources... you’ll have a union with diminished resources, not able to investigate what it should demand at the bargaining table, not equal to the employer that it faces (*Janus v. AFSCME* pp. 10).” Justice Elena Kagan took a different tact and questioned why the court would overturn a precedent that had been set in *Abood v. Detroit Board of Education*, the 1977 case that affirmed the legality of public sector union security clauses nationwide: “When have we ever done something like that? What would be the justification for doing something like that (*Janus v. AFSCME* pp. 22)?” When questioned by justice Anthony Kennedy, AFSCME lawyer David Frederick admitted that, were the unions to lose, they would “have less political influence (*Janus v. AFSCME* pp. 55).”

The unions did lose, in a 5-4 decision written by Justice Samuel A. Alito. However, contrary to the predictions of nearly everyone involved, *Janus* did not lead to “the end of public sector unions in America.” Nationally, public sector unions have even been able to buck the negative trends that have plagued private sector unions. After the court’s decision in 2018 the percent of public sector workers covered by a union contract remained flat at 37.2% while the percent of workers that (now voluntarily) pay dues dipped from 33.9% to 33.6%. To date, the percentage of dues-paying public sector workers has returned to its pre-*Janus* level of 33.9% and the percentage of workers covered by a union contract has risen by more than a percentage point to 37.6% (Unionstats 2022).

Although public sector unions have lost some (about 74,000) members since 2018 the overall rate of unionization has increased due to economic changes brought on by COVID-19 (Shierholz, Poydock, Schmitt and McNicholas 2022). This level of attrition pales in comparison to private sector unions, which have lost about 507,000 members since 2019. While no public sector union was able to avoid the loss of some of its dues payers, most were able to add members or convert dues-payers to full members to make up for the loss. In addition to better-than-expected membership numbers, public sector union’s finances also remained stable. Several months after *Janus*, most public employee unions had increased their financial holdings (Rainey and



Kullgren 2019). Unions budgeted conservatively and by the end of 2019 many found themselves with revenue surpluses after membership losses fell short of expectations (Rainey and Kullgren 2019).

Several years removed from *Janus* it has become abundantly clear that the preemptive organizing unions conducted in anticipation of the decision was critical to the short and long term health of public employee unions (Gies 2019). *Friedrichs* gave unions reason to organize in anticipation of a ban on security clauses as early as 2016. The death of Antonin Scalia and subsequent deadlock decision in the case meant that unions had another two years to organize before the *Janus* decision. SEIU president Mary Kay Henry described how “*Janus* was seized on by us and other parts of the labor movement as an opportunity to re-educate and activate our members in a much bigger fight that we’re all committed to having (Rainey and Kullgren 2019).” SEIU’s organizing strategy is broadly in alignment with what observers have remarked are necessary strategic decisions for public sector unions (Herbert 2019 162-73).

## Gaps in the understanding of union and right-to-work strategies

Unions have not suffered anywhere close to the amount assumed in 2018. Some unions have lost members—many others have not. This is despite the fact that public sector labor organizing today is completely transformed from its reality just a few years prior: a single organizing drive in a workplace can no longer ensure long-term dues-payers. In order to grow their membership, economic might and political influence, unions have to ensure that every person that works under a collective bargaining agreement can see the value in dues payment. Labor academics have suggested that unions pursue this goal by “maximiz[ing] solidarity by empowering unit members, and prioritizing issues based on worker perspectives, unit composition, and geography (Herbert 2019 162-73).” This is certainly true for many unions, but maximizing solidarity has always been a goal for the labor movement—no union leader wants a membership base that is disconnected from itself.

To date there has been minimal examination of how the most successful public sector unions have acted differently in response to *Janus* in terms of their specific on-the-ground organizing strategies, methods of member involvement and communications. Just as importantly, there have not been in-depth studies of the specific tactics and strategies employed by right-to-work groups and the impact or lack thereof of their

campaigns on public sector unions. It is clear that *Janus* enabled the birth of opt-out campaigns in the public sector but what is less clear are the reasons why these campaigns succeed or fail. As right-to-work groups show no signs of slowing down their opt-out efforts and legislative campaigns it will be important for unions to intimately understand how to retain and grow membership.

These concerns have certainly been considered by union staff since *Janus*. But the disparate performances of various public sector unions since the decision indicates that some unions offer a much better guide for future public sector union success than others. The American Federation of Teachers (AFT), for example, lost more than twice as many members as AFSCME, a similarly sized union (Office of Labor-Management Standards 2022).

This statistic is surprising considering the success of AFT's largest state level affiliate and the focus of this study, the California Federation of Teachers (CFT), which has organized more members than it lost and has significantly increased its cash reserves since *Janus*.

This is despite the fact that California's teachers unions are among the most appetizing targets for right-to-work groups. California's historically friendly labor laws and large population (which requires more teachers than any other state) have led California public sector unions to become disproportionately important to the maintenance of their national unions. Although AFT has affiliates in every state in the country, the California Federation of Teachers represents nearly a tenth of the union's 1.7 million members (CFT 2023). CFT has offered crucial financial support for AFT's weaker affiliates, especially those in the 27 states that already had right-to-work prior to *Janus*. This dynamic holds true for other affiliates of public sector unions in California: a recent study of the California Teacher Association described how "membership dues help subsidize the continued existence of sickly state affiliates in the South." (Antonucci 2023) Right-to-work groups saw that the loss of members or revenues in California had the potential to destabilize national public sector unions and weaker state-level affiliates in "a domino effect across the country." (Antonucci 2023)

CFT is incredibly important for AFT, but its success compared to other California unions makes it a particularly compelling case study. One year after *Janus*, the SPN-affiliated Freedom Foundation conducted an extensive study of California public sector union membership that involved "450 public records requests...

more than 300 hours compiling information... analysis of payroll data from 74 school districts (including the state's four largest districts) and nearly 100,000 state workers and more than 100 U.S. Department of Labor and IRS union compliance reports." The Freedom Foundation report claimed that *Janus*' impact had been "profound" and resulted in the loss of 125,200 public sector union members in the state; SEIU, AFSCME, the California School Employees Association and California Teachers Association were each attributed with losses in the 30 and 40 thousands. (Wickers 2020) But CFT, the second largest public sector union in the state (and a frequent target of right-to-work attacks ranging from CFT-specific opt-out websites (optouttoday.com) to a series of open letters addressed to national union president Randi Weingarten (California Policy Center 2021)), was not even mentioned. For the Freedom Foundation, CFT simply didn't fit the narrative.

Faced with a right-to-work movement that is well-funded, well-organized and eager to facilitate ever greater losses of members, public sector unions are at a perilous moment. Nationally, public sector unions have more or less maintained their numbers on the backs of strong performers like CFT. But if the labor movement is to retain a strong foothold in the public sector, it will need to document and interrogate how CFT and similar unions have outperformed their peers in order to establish best practices for a right-to-work future.

## Research Methods

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The following methods were used to examine how the California Federation of Teachers (CFT) largely avoided membership and revenue losses that were expected as a result of the *Janus v. AFSCME* Supreme Court decision. While every union that represents public sector workers was affected by the *Janus* decision some unions fared better than others. CFT was among the unions that subverted expectations the most and gained members in the years after *Janus*. CFT also overperformed compared to other state organizations within its national affiliate, the American Federation of Teachers, and the state of California.

In order to understand the impact of *Janus* on CFT I analyzed union membership and financial reports in the years before and after the *Janus* decision. This data indicates how the health of the union and the union's ability or lack thereof to organize new workers has changed since *Janus*. However, this data provides an incomplete picture of a complex organization. Interviews with union members, union staff and elected and appointed

union leadership provided context for changes in membership, revenues and most importantly the strategies the union employed in response to *Janus*.

This paper seeks to understand not only the impact of *Janus* on public sector unions but more specifically how public sector unions can be successful in a post-*Janus* world. *Janus* itself would not pose as great a challenge to unions membership numbers and bottom line if not for the efforts of the conservative policy centers that have seized upon the *Janus* decision as an opportunity to encourage union members to leave their unions en masse. Prior to *Janus*, the loss of a member in a bargaining unit meant very little; the difference between full member dues and the dues non-member “agency fee payers” were required to pay to cover the costs of representation was usually inconsequential. In order to understand the threat that conservative anti-union organizations pose to public sector unions I interviewed leading figures in the right-to-work movement. I also analyzed these organizations’ strategy documents, tax returns and other publicly available information to better understand their activities, financing and motivations.

IRB approval for this study’s interview portion was received through Occidental College’s IRB review board on November 15, 2022.

## Organizational Health and Document Analysis

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The Labor Management Reporting and Disclosure Act requires private sector unions to file information and annual financial reports with the Office of Labor Management and Standards. As CFT represents both public and private sector workers in the education sector, there is little financial data available through the Office of Labor Management and Standards. Public sector union’s 990 forms are publicly available from the IRS and audited financial statements are available through CFT’s website. These documents formed the basis for my analysis of the union’s health before and after *Janus*.

Specific union membership numbers were more difficult to ascertain. CFT does not share this information with its union allies and certainly does not share it with outside researchers. It was not possible to obtain a total

number of members in the state union or individual locals but trends of member gains and losses over time are trackable to an extent.

In order to track membership gains and losses over time the 15 CFT locals that make executive board meeting minutes publicly available were assigned a ranking for each month between January 2018 and February 2023. A ranking of 1 was assigned for each month a local reported membership gains between 1-14 new members while a ranking of 2 was reported for each month a local reported “significant” membership gains of 15+ members. A ranking of 0 was assigned for each month a local did not report membership gains or did not have meeting minutes, while rankings of -1 and -2 were assigned for months where locals reported membership losses or “significant” membership losses (15+ members). If minutes did not provide a specific number of members gained or lost but described a positive or negative change in membership a ranking of 1 or -1, respectively, was assigned. Rankings were then totaled for each year. With this methodology, locals that have lost members would have negative scores while locals that have gained members would have positive scores. Locals whose membership has remained the same would have scores closer to 0.

The method of analysis used to understand union finances was repeated for right-to-work groups. All of the right-to-work groups profiled in this research hold either 501 c(3) or 501 c(4) non-profit status and thus report publicly available financial information to the IRS. Nonprofits are generally not required to report their donors and none of the organizations profiled here chose to report specific donor information in interviews or documents shared with me. However, nonprofits are required to report their giving in annual 990's. By searching part XV of the form 990's of some of the largest conservative financiers such as the Charles W. Koch Foundation and Donors Trust I was able to identify giving from these organizations to the right-to-work groups profiled in this research. While it would be impossible to account for every penny received by right-to-work groups, these tax documents help to clarify which people and organizations are most interested in financing anti-union activities.

## Semi-structured Interviews

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### *Union Leadership*

Interviews with union leadership documented the union’s strategies to counter the effects of *Janus*. Interviews were conducted with former CFT President Josh Pechtalt, current CFT President Jeff Freitas and CFT Communications Director Matthew Hardy. Josh Pechtalt served as CFT president until 2019 and led the union through the *Janus* decision. As president, he oversaw CFT’s long term strategy in the leadup to and immediate aftermath of *Janus*. Freitas succeeded Pechtalt in 2019 after he served as Secretary-Treasurer for eight years. As Secretary-Treasurer, the second most senior position at the union, Freitas was responsible for the administration of the union’s financial policies and health. Matthew Hardy is responsible for the union’s communication’s strategy and directs the organization’s public narrative.

### *Pro Right to Work Organizations*

I also interviewed four key individuals in the right-to-work movement. Rebecca Friedrichs was the lead plaintiff in *Friedrichs v. CTA*, the Supreme Court case that preceded and was substantially similar to *Janus v. AFSCME*. She now runs an organization called For Kids and Country that helps teachers opt out of their unions and advocates for curriculum reform in public schools. William Messenger was the lead lawyer in the *Janus* decision. He was responsible for the execution of the legal strategy developed in *Friedrichs* and later applied to *Janus*. He currently works for the National Right to Work Legal Defense Foundation, a public interest law firm that advocates on behalf of right-to-work measures. Maxford Nelson is the labor policy director at the Freedom Foundation, one of the main organizations that helps public sector workers leave unions. Finally, I interviewed Jackson Reese, vice president of the California Policy Center, a non profit think tank affiliated with the State Policy Network.

## Interview Subjects

<b>California Federation of Teachers</b>	<b>Right-to-Work Proponents</b>
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Josh Pechtalt	<i>Former CFT President</i>	William Messenger	<i>Staff Attorney, National Right to Work Legal Defense Fund; lead Attorney for the plaintiff Janus v. AFSCME</i>
Jeffrey Freitas	<i>Current CFT President</i>	Maxford Nelson	<i>Labor Policy Director, Freedom Foundation</i>
Matthew Hardy	<i>CFT Communications Director</i>	Rebecca Friedrichs	<i>Lead plaintiff, Friedrichs v. CTA; Founder, For Kids and Country</i>
Dashiel Johnson	<i>Executive Director, Adjunct Faculty United</i>	Jackson Reese	<i>Vice President, California Policy Center</i>

Table 1

## Findings and Analysis

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### CFT has maintained healthy finances and membership numbers

Publicly available financial and membership data show that CFT is an example of a public sector union that has been largely successful post-*Janus* despite significant challenges created by the decision. For the purposes of this research, financial health and membership growth were chosen as key markers of union success that could be analyzed over time. A successful union is one that has enough money to do what it wants to do and has a large enough (and dedicated enough) membership base to collect sufficient revenue and exert the collective power of its members. CFT has both.

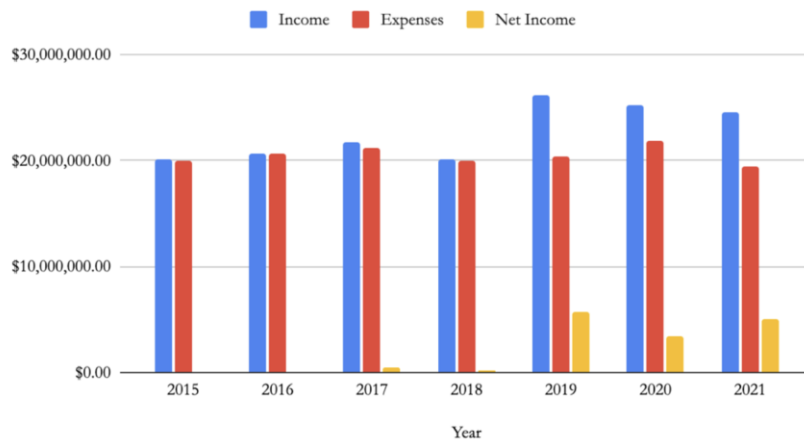
#### CFT Finances

*Janus*'s biggest impact was expected to be from the loss of agency fee payers—the people who worked in unionized workplaces and didn't join the union but were still required by law to cover the costs of representational activities. The decline in revenue that was expected as a result from the loss of agency fee payers did not occur for the California Federation of Teachers. Audited financial statements for the state level union—

which is largely financed through payments from locals and can be taken as a marker for the overall financial health of the union in California—show a significant increase in revenue after 2018 and a change in spending habits.

Figure 1

### California Federation of Teachers Income and Expenses



(CFT Financial Audit 2021; 2020; 2019; 2018; 2017; 2016; 2015)

Prior to the *Janus* decision in 2018, yearly income hovered around \$20,000,000 with expenses nearly even with income or just a few thousand dollars lower. CFT President Jeff Freitas explained that the union expected to lose about 11% of its yearly income from the immediate loss of agency fee payers due to the decision. (Leo Blain interview with Jeff Freitas) After *Janus*, yearly income jumped by about \$6 million and has decreased somewhat each year since (by \$917,466 in 2020 and \$654,600 in 2021). More importantly, the union's *net* income has increased by a significant margin to reflect a larger gap between income and expenses. In 2019, when the immediate impact of the loss of agency fee payers should have been felt most acutely, the union experienced its best financial year on record in terms of revenue and net income. Net income dropped from \$5,758,347 in 2019 to \$3,361,800 in 2020, but bounced back to \$5,060,163 in 2021. Prior to *Janus* net income was as low as \$15,444 (in 2016) to almost half a million in 2017.



## CFT Members

Union membership data is much more difficult to ascertain than financial data due to the fact that there are no reporting requirements for public sector unions. In interviews CFT described notable increases in membership after *Janus*, while right-to-work groups interviewed for this project contradicted the union's report. CFT President Jeffrey Freitas described how "there was an [AFL-CIO] prediction, and we were just following the model that everyone else was talking about, losing about 10 to 15% [of members] in the first year, and we didn't lose any of that." According to the union, membership actually increased by 1% immediately after *Janus*.

Yearly revenue provides some insight to the union's claims—more revenue usually means more dues-paying members—but it does not show a complete picture as dues amounts can change year-to-year. CFT President Jeff Freitas and CFT Local 6106 executive director Dahsiel Johnson both claimed that membership as a percentage of bargaining units represented had grown since the *Janus* decision (however both noted that the union lost about 1% of membership over the last three years because of attrition from the profession). With this in mind, I attempted to confirm the claims made in interviews by CFT leadership that membership has grown by reviewing executive board meeting minutes that have been made publicly available by CFT locals. Many locals do not make their board meeting minutes public and among those that do many do not report detailed membership information. However, enough locals report membership changes, either with direct numbers or qualitatively ("this was a good month for us in terms of membership" etc.) that it was possible to get a general sense of whether or not locals lost or gained members year-to-year.

*Figure 2*

- d. Return to Work (Melissa, Fullerton; Tonya, Cypress):
- e. Membership (Tamara, Seija and/or Grant)
  - 1. Number of members and (new) members since last meeting: 594 members currently, 0 new members, 1 member requested out (drop window august-September)
    - Seija has been trained in connect, helped get members connected to health insurance.
  - 2. successful EDD workshop, lots of questions and participation
  - 3. Seija is officially the membership chair after this meeting. Tamara will be available for support.

(AFT 6106 2020)

Based on publicly available executive board meeting minutes CFT's claims of generally positive membership numbers appear to be true. After assigning rankings of 1 and 2 for each month with positive or significant

positive reported membership growth, zero for no reporting and -1 or -2 for negative or significant negative membership growth, no CFT local's cumulative score for any year dating back to 2018 was negative. Of the locals that reported membership numbers, only two locals reported membership losses of any kind at any point in the last five years. Both of the locals that reported losses at some point (AFT 6106 and AFT 4522) also reported membership gains at other points and the two instances of membership loss were apparently minimal—AFT 6106 reported that just a single member opted out, while AFT 4522 only discussed membership losses generally without providing any concrete numbers. Of the locals whose minutes included information beyond just gains and losses “member-to-member conversations about joining the union” (Executive Board Meeting Minutes LA College Faculty Guild, Sept. 21 2021) or similar interactions were frequently identified as their most effective driver of membership growth.

*Figure 3*

**Q. Organizing (Golding & Sun):** See pp.36-37 for report. Joanne opened by stating that for the last 2 years, organizers have moved organizing department to the next level. Joanne noted that while Seo Yun would stay with us, Chase Golding would be moving up to organizing with CFT.

Chase highlighted the number of goals against the Recall.

Jonathon noted that we increased membership since August Eboard meeting and spoke about Faculty Power Friday sessions that train attendees to have member-to-member conversations about joining the union.

Chase announced that he would be leaving the Guild and taking on an organizing position with CFT. Chase noted preserving energy of up-and-coming faculty participants and treat one another well.

*This organizing report from the September 21, 2021 Executive Board Meeting of the LA College Faculty Guild would yield a score of 1*

(AFT 1521 2021)

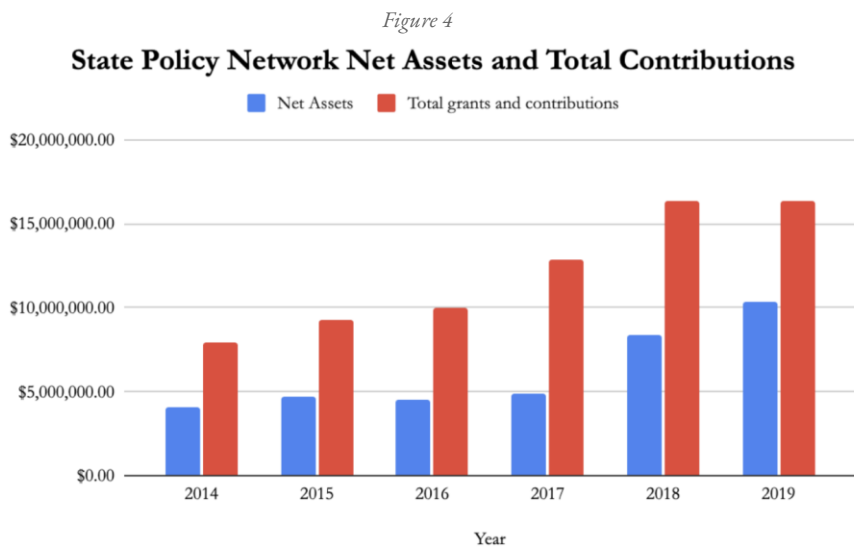
## Right-to-work group finances

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CFT's financial and membership situation would seem to indicate that right-to-work groups have not been successful since *Janus*. If their campaigns to encourage public sector workers to opt out of their unions had

worked, CFT’s revenue and net income would’ve decreased after *Janus*, not increased by several million dollars. Further, there would have likely been more negative reports on membership numbers or concerns about opt-out campaigns in CFT local minutes.

Although right-to-work groups have not had any significant impact on CFT’s finances or members to this point, these groups have seen a near unilateral increase in assets and revenue. The State Policy Network and the groups organized under its purview as dues-paying “affiliates” in the network (such as the California Policy Center and the Freedom Foundation, whose staff were interviewed for this research) saw donations spike when *Janus* was decided in 2018 or immediately thereafter.

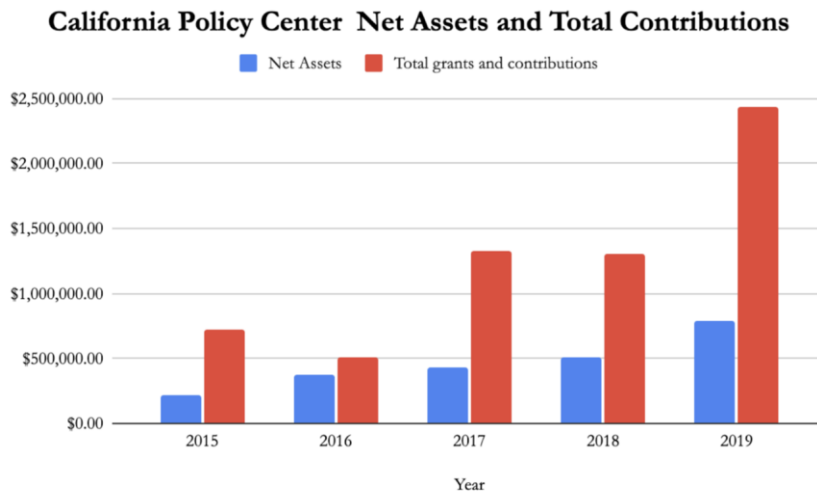


(State Policy Network form 990 2019; 2018; 2017; 2016; 2015; 2014)

The State Policy Network is an effective bellwether for the broader right-to-work movement. Its funding hovered around \$8-9 million per year before beginning to increase in the leadup to the *Janus* decision in 2017 (after Donald Trump was elected and a conservative Supreme court certain to rule against unions was

guaranteed) before leveling out at around \$16 million by 2018. Most, if not all of SPN's affiliates saw a similar pattern.

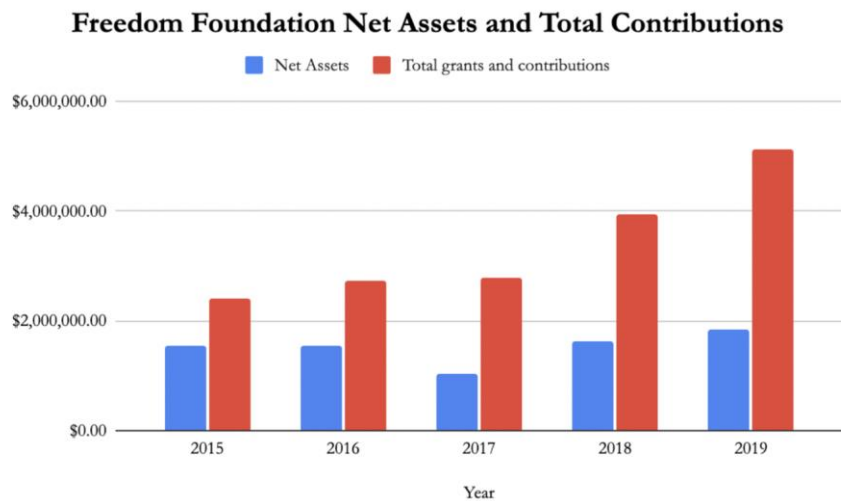
Figure 5



(California Policy Center form 990 2019; 2018; 2017; 2016; 2015)

The California Policy Center's fundraising spiked in 2017, before truly taking off in 2019, the year after *Janus* was decided.

Figure 6

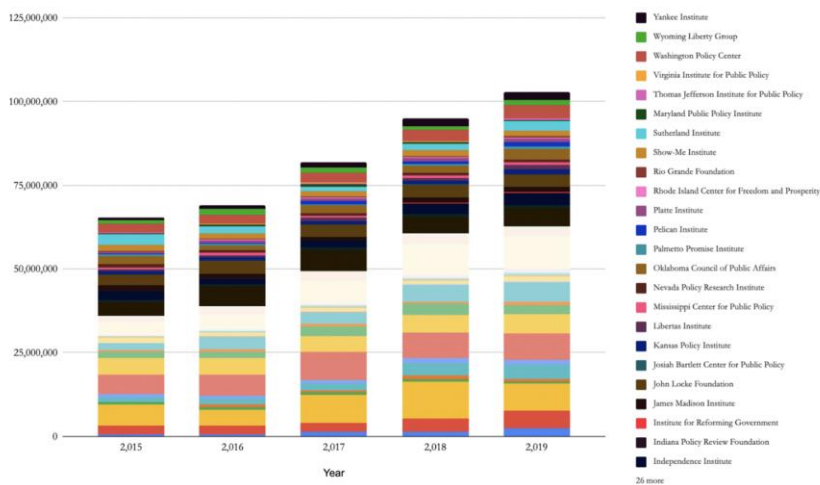


(Freedom Foundation form 990 2019; 2018; 2017; 2016; 2015)

The Freedom Foundation experienced similarly good financial fortunes, but it certainly wasn't alone. This pattern has held true across all of SPN's affiliates.

Figure 7

### Total Grants and Contributions to SPN Affiliates



(SPN affiliate form 990's 2019; 2018; 2017; 2016; 2015)

## SPN strategically funded its affiliates to build an opt-out campaign made possible by the *Janus* decision

SPN's 990 section XV shows that the network redistributes millions of dollars each year to its state level affiliates. This information contradicts California Policy Center Vice President Jackson Reese's claim that "we've never gotten a call from SPN, telling us to do anything." This is despite the fact that SPN's most recent 990 reported a \$139,400 payment to the California Policy Center that made up about 6% of the organization's revenue for the entire year. California Policy Center is by no means an outlier; most SPN affiliates received a payment, usually between \$50,000 and \$150,000.

SPN's donations to its affiliates are indicative of the "ramping up" of support for right-to-work groups that occurred after the *Janus* decision. In 2016, SPN gave money to 22 separate organizations. In 2019, the year after *Janus* was decided, 38 groups received SPN funds.

Figure 8

(a) Name and address of organization or government	(b) EIN	(c) IRC section if applicable	(d) Amount of cash grant	(e) Amount of non-cash assistance	(f) Method of valuation (book, FMV, appraisal, other)	(g) Description of non-cash assistance	(h) Purpose of grant or assistance
EMPIRE CENTER FOR PUBLIC POLICY 30 SOUTH PEARL STREET SUITE 1210 ALBANY, NY 12207	46-1987418	501(C)(3)	141,150				ECONOMIC FREEDOM RESEARCH; COMMUNICATION EDUCATION
<b>Form 990, Schedule I, Part II, Grants and Other Assistance to Domestic Organizations and Domestic Governments.</b>							
CALIFORNIA POLICY CENTER 18002 IRVINE BOULEVARD SUITE 108 TUSTIN, CA 92780	27-2870463	501(C)(3)	139,400				ECONOMIC FREEDOM RESEARCH
COMMONWEALTH FOUNDATION 225 STATE STREET HARRISBURG, PA 171011129	23-2473845	501(C)(3)	112,500				ECONOMIC FREEDOM RESEARCH; GENERAL OPERATING
<b>Form 990, Schedule I, Part II, Grants and Other Assistance to Domestic Organizations and Domestic Governments.</b>							
ILLINOIS POLICY INSTITUTE 190 S LASALLE STREET SUITE 1500 CHICAGO, IL 60603	41-2057028	501(C)(3)	110,000				ECONOMIC FREEDOM RESEARCH
BEACON CENTER OF TENNESSEE PO BOX 198646 NASHVILLE, TN 37219	20-1808567	501(C)(3)	107,500				ECONOMIC FREEDOM RESEARCH; COMMUNICATION EDUCATION

SPN redistributes millions of dollars each year to its 69 affiliates

(SPN form 990 2019)

The amount of funding has increased, too. In 2016, only one group, the Illinois Policy Institute received over \$100,000. This makes sense within the timeline of the *Janus* case: Illinois Policy Center had developed the lawsuit with Governor Bruce Rauner as a backup to *Friedrichs* after his election in 2015. When *Friedrichs* failed in 2016, Illinois Policy Center restarted and funded Mark Janus’ case. After *Janus* gave public sector workers the ability to opt out of their unions, right-to-work groups sought to take full advantage of the decision through opt-out campaigns across the country. This required significantly more funding for state level groups to pursue targeted, local opt-out campaigns. In 2019, 38 groups received donations from SPN, 6 of which received over \$100,000.

SPN makes very few payments to groups outside of its network. This made its largest payment in 2019 an outlier, and an especially telling one at that. In 2018, conservative dark money network DonorsTrust and the Wellspring Committee (a major funder of the Judicial Crisis Network, which was crucial in the campaign to prevent President Obama from appointing Antonin Scalia’s replacement) provided \$600,000 to entirely cover the startup costs for the People United for Privacy Foundation, a group whose mission is to “protect the ability of nonprofit donors to support the causes they believe in and to do so privately.” (UnitedforPrivacy.com By 2019, the Wellspring Committee had filed termination paperwork. That same year, State Policy Network

provided \$616,718 of the People United for Privacy Foundation’s \$660,000 of contributions. The initial source of the money to support donor privacy efforts never changed, though: DonorsTrust made several payments to SPN in 2019, one of which totaled \$700,000 and was earmarked for “[SPN]’s efforts to protect donor privacy.”

Figure 9

Organization Name	Address	City	State	Zip	Phone	SSN	Amount	Payment Method	Notes
State Policy Network 1655 North Fort Meyer Dr Suite 360 Arlington, VA 22209-3108	57-0952531	501(c)(3)		\$2,000.00	N/A	Cash	N/A	\$1000 for MPS travel/registration, the balance for general operations	
State Policy Network 1655 North Fort Meyer Dr Suite 360 Arlington, VA 22209-3108	57-0952531	501(c)(3)		\$6,504,900.00	N/A	Cash	N/A	for general operations	
State Policy Network 1655 North Fort Meyer Dr Suite 360 Arlington, VA 22209-3108	57-0952531	501(c)(3)		\$37,500.00	N/A	Cash	N/A	for the area of highest need	
State Policy Network 1655 North Fort Meyer Dr Suite 360 Arlington, VA 22209-3108	57-0952531	501(c)(3)		\$700,000.00	N/A	Cash	N/A	for your organization's efforts to defend and promote donor privacy	

(Donors Trust form 990 2019)

Publicly available tax documents show that there are strong financial relationships between SPN affiliates and conservative financiers that contradict these groups’ public-facing message that their organizations are supported by donors both large and small from across the political spectrum. Jackson Reese of the California Policy Center claimed that “there are lots of Democrats that are paying money for our work, and our funding, there’s lots of independents and there’s Libertarians, Republicans too.” By searching section XV of form 990 for some of the largest conservative financing organizations I was able to positively link the Charles W. Koch Foundation, the DeVos Family Foundation and DonorsTrust to a wide selection of SPN affiliates. The California Policy Center, for example, received 16% of its contributions from just three sources in 2019: DonorsTrust, the Bradley Foundation and SPN. SPN, in turn, received 47% of its funding that year from Donors Trust and the Bradley Foundation. Just as the first right-to-work laws were won through campaigns backed by General Motors and the du Pont family, right-to-work campaigns today are supported by this

Commented [1]: flowchart would be good here



country's most powerful families and business interests. (Kaufman 2015)

Figure 10

California Public Policy Center 18002 Irvine Boulevard Suite 108 Tustin, CA 92780	27-2870463	501(c)(3)	\$158,400 00	N/A	Cash	N/A	for general operations
Project Venias 1214 Boston Post Road, #148 Mamaroneck, NY 10543	27-2894856	501(c)(3)	\$4,093,190 00	N/A	Cash	N/A	for general operations
Project Venias 1214 Boston Post Road, #148 Mamaroneck, NY 10543	27-2894856	501(c)(3)	\$52,500 00	N/A	Cash	N/A	for the area of highest need

*California Policy Center receives large donations from conservative "dark money" groups like Donors Trust.*

(Donors Trust form 990 2019)

## Interview Findings

Interviews with CFT leaders and key figures in the right-to-work movement revealed how CFT has been able to maintain healthy finances and membership and why right-to-work groups have struggled to do anything about this.

## Right-to-work groups seek to frame unions as greedy, out-of-touch and overly influential

Right-to-work groups developed the messaging that they would employ in opt-out campaigns when Rebecca Friedrichs' case against the California Teachers Association began to make its way to the Supreme Court. After writing a series of anti-union op-eds in local papers, an organization called the Center for Individual Rights (CIR) contacted Friedrichs and recruited her to be the lead plaintiff in their attempt to end agency fee.

Friedrichs explained how she "worked with them a lot... especially CIR, because they were the messaging piece and I was the lead plaintiff." As the public face of the case, Friedrichs, with the support of CIR, engaged in an extensive media campaign that involved cable news appearances with Mike Huckabee and Megyn Kelly. The media campaign was guided by a communications strategy created by Friedrichs and CIR lawyers over three

days in DC. Rebecca Friedrichs shared a document with me, broken down into three “arguments” that frame the right-to-work messaging strategy. Although they were developed two years before *Janus*, these points guide the messaging that right-to-work groups use today in their opt-out campaigns.

The freedom of speech argument that was eventually used to overturn *Abood* in *Janus* and has since been expanded to attack unions from several angles.

Argument One:

*“Right now, teachers’ rights are being trampled in the United States. They’re being trampled by laws that force us to fund unions—even when we disagree with their positions in and out of the classroom.”* (Talking Points–Friedrichs v. CTA 2016)

**Commented [2]:** take this out and use rather an analytical approach as per above

The cost of union dues is often touted as a key reason to opt out—and right to work groups are eager to show union members what they could save if they stopped paying with anti-union tools such as optouttoday.com’s “Union Dues Retirement Calculator.” (optouttoday.com) In addition to the cost of dues, right-to-work groups seek to publicize the political spending and policy goals that dues are used for. The Freedom Foundation, for example, obtained email addresses for “tens of thousands of dues-payers from the California Teachers Association (CTA) and various Service Employees International Union (SEIU) locals across the state,” in order to email them misleading information about their union’s political spending. According to the Freedom Foundation, their email “detailed the extreme levels of political spending happening both with voluntary contributions and involuntary (union dues) contributions happening around the 2020 election, both locally and federally.” (Coleman 2020) What the email failed to note in its address to union members is that SEIU–like other unions, including CFT–funds its political expenditures through payments collected through voluntary participation in the union’s Committee on Political Education, not member dues.

Friedrichs’ and CIR’s second argument is often applied to “values,” as in what should or shouldn’t be taught in schools and how much influence unions have over schools.

Argument Two:

*“The unions are increasingly out of touch – with what’s happening in the classroom – in the economy – and in society. And that is hurting both teachers and students.”* (Talking Points–Friedrichs v. CTA 2016)

This argument often manifests as outrage at sex education curricula established by union-supported legislation such as the California Healthy Youth Act, diversity and inclusion policies perceived as “woke” or curriculum requirements that unions have supported such as Common Core. Friedrichs’ own organization, For Kids and Country, relies heavily on this argument in the content it produces, which ranges from “Get Educated about SeXXX Ed” and “Critical Race Theory” toolkits to projects such as the self-explanatory Union Exit and Public School Exit (which intends to “facilitate an exodus of American children and families from government-controlled education”) initiatives. (forksandcountry.org)

The final piece of the anti-union communications strategy frames unions as powerful organizations that bully workers into membership, are out of touch with their members and use deceitful practices to collect dues.

#### Argument Three:

*“This is about our first amendment rights of free speech and free association. It’s about a small group of courageous teachers standing against a giant and powerful union. It’s David vs. Goliath.”* (Talking Points–Friedrichs v. CTA 2016)

Right-to-work groups are especially quick to criticize union democracy (or a perceived lack of union democracy), and highlight instances of real or imagined persecution of union members with conservative views. This can be seen in essays produced by SPN affiliated think tanks with titles such as “On Every Major Political Issue Affecting Cost-Of-Living in California, Unions Supported Political Agenda of Self-Serving Ruling Elite” (Ring 2022) or “Government unions are outsized bullies holding workers, taxpayers hostage.” (Benefield 2022) The message that unions are bullies informs campaigns such as the Freedom Foundation’s “Pre-Janus Opt-Out Campaign” that targeted UTLA in 2018 for “aggressively asking educators to sign a new union membership card.” (Han 2018) In a doublethink-esque turn of phrase, the Pre-Janus Opt-Out campaign announcement went on to claim that “When given the appropriate information, Californians will make sound logical decisions... Teachers are no exception to this, and yet many are most susceptible to this form of manipulation.”

**Right to work groups work closely with each other to encourage teachers to opt-out of their unions**

Right-to-work group's donations increased significantly in 2017, 2018 and 2019 because conservative financiers wanted to fully weaponize the *Janus* decision against unions. Prior to *Janus*, these groups could generate pro-right-to-work research and educate legislators, but they couldn't engage in explicitly political activity (campaigning on behalf of a candidate, for example) and thus were limited in their usefulness to conservative and pro-business right-to-work proponents. As California Policy Center vice President Jackson Reese described, "we realized that sitting back and writing these really well researched papers wasn't actually doing anything when it comes to helping people understand or create concrete policy changes that, you know, can make business, pro-business ideas attractive again in the state... So we got engaged on a more grassroots level."

Public sector union members would not be likely to opt-out of their union's en masse without the assistance that the State Policy Network and its affiliates (such as the California Policy Center) sought to provide. This task was accomplished through a tiered collection of organizations that work in concert to connect with public sector workers, build some kind of connection or relationship and ultimately send the soon-to-be ex-union members to organizations like the National Right to Work Legal Defense Foundation or the Freedom Foundation who then shepherd them through the opt-out process.

Reese described how "we've launched a campaign throughout California to help public employees understand that after the *Janus* decision they have a right to opt out of their units. And we've seen a tremendous amount of people come not just through our site, but the sites of partners." One of these partners is Rebecca Friedrichs' organization For Kids and Country. Friedrichs uses her background as a former public school teacher to craft an educator-oriented approach to the opt-out campaign. She described how For Kids and Country "consider ourselves rainmakers for someone like the Freedom Foundation, we're sending teachers, here you go. And we're happy to do that, because we want teachers out, and they have the resources, lawyers and stuff like that to be sent in there." Her organization is not large—the only staff listed on For Kids and Country's 990 are Friedrichs and her husband and the organization lists just \$30,000 in assets—but its impact, and Friedrichs influence, are significant. She explained how "because I took it on the chin for teachers, they just trust me. So teachers come to us a lot. We don't have money really to help them, like we can't help them sue or anything like that. But we have a network... So I think one of the most important things we do is we have something we call a 'sponsor teacher.'"

These sponsors “come alongside teachers and educate them about what their unions really are, and empathize with them and give them encouragement and help them to get out of the unions, because it’s scary to do it by yourself.” For Kids and Country’s volunteers “will get on the phone with [teachers] and talk to them for two or three hours, and walk them through the nightmare they’re going through... Some volunteers are on the phone every week with the same teacher.” Strategies to reach public sector workers vary depending on the organization and its relative resources; the California Policy Center, for example, relies on “organizations that we partner with that approach, contact and work with teachers and all public employees,” according to Reese.

Across the United States, 69 think tanks affiliated with the State Policy Network engage in activities similar to those of For Kids and Country and the California Policy Center.

After public sector workers have been contacted and educated about their right to opt-out of their union and connected to an organization like the Freedom Foundation, people like Max Nelson, director of labor policy at the Freedom Foundation, help them to opt out. “The second task is providing them information about how to exercise those rights,” he described. “The process for canceling dues deductions does vary from state to state, from union to union, even depending on the terms of membership, depending on the terms of collective bargaining agreements that have been negotiated between unions and government employers. So we provide them with that information. We provide them with a form that they can complete and submit to the union with the appropriate legal language to cancel these payments. And then we try to provide them with information about how their union spends their dues, so that they can have some ability to evaluate whether it’s an organization that aligns with their views and values. So that’s a lot of information to communicate. Generally, that takes place kind of on an ongoing basis.”

## Right-to-work groups seek to undermine public schools

Opt-out campaigns are not the only way right-to-work groups have worked to undermine teachers unions. Organizations like the California Policy Center and For Kids and Country can weaken teachers unions by eliminating the jobs of their members. This has materialized in the form of the “school choice” movement,

which advocates for a redistribution of education spending away from public schools in order to subsidize charter schools. While public school teachers are the most unionized profession in the United States (almost 70% union density) only 11.3% of charter school employees are unionized—a number that is more on par with national private sector union density. (Prothero 2019) Although charter schools receive public funds, each school or network of schools is independent from a school board and has the autonomy to make its own staffing and curricular decisions. This makes it easier for parents—or policy centers—to pressure schools to alter their curricula. It also makes it harder for teachers in a community to collectively bargain. In a traditional public school system, thousands of teachers across multiple schools can use their collective power to bargain with their employer—the school board. In a charter school system, each school has to bargain on its own. This can result in dramatically different pay schedules, working conditions and curriculum requirements between different schools in the same community. Teachers aren't the only group hurt by charter schools though—students suffer too. New Orleans, which eliminated all of its public schools and relies entirely on charters, faces both a shortage of teachers and a lack of experience among the teachers that actually take jobs in the city. Although state law only requires teachers to graduate college with a 2.5 GPA or better and pass an exam to be certified, 12.5% of teachers in the state remain uncertified. In New Orleans, 54% of teachers are uncertified. (Sentell 2022)

Right-to-work group's attempts to convert public schools to charters are more explicitly political than their opt-out campaigns. Because decisions around public school funding are largely made at a state or local level, these groups have developed wide-reaching networks among local politicians. Jackson Reese described how his organization has developed a network of “about 1200, 1300 public officials that we connect with regularly throughout the state.” Through public forms with open supporters of school choice and private conversations with candidates and elected officials, right-to-work groups like the California Policy Center shift the political discourse towards a rosier view of charter schools. 501(c)3's like the California Policy Center are prohibited from supporting political parties or candidates, but they can educate candidates and elected officials on policy issues. This is a key strategy in the school choice campaign. For many of the local candidates that people like Reese connect with, right-to-work groups are the only organizations that attempt to shape their education policy positions. Reese described one candidate who “ran because of the 5% of this, that it's really seductive,” and “couldn't tell me the difference between a public school and a charter.” When Reese called him, they “spen[t] hours talking about the history of charter schools and how education policy has evolved since their founding, what their purpose is and why we have them.”

# Right-to-work group Interview Coding

Tags	Tag sub-theme	Example
COVID: 2 total tags	COVID	From interview with Rebecca Friedrichs: <i>"there's over 1000 employees in LA Unified School District who have been either fired or otherwise harassed because they didn't want to take the experimental shot based on religious or medical reasons."</i>
Values: 34 total tags	Values: race	From interview with William Messenger: <i>"it's just as wrong to compel a Hispanic person to support a union against their will as it would be a white person or any other race. So I don't see [right-to-work] as a race thing at all."</i>
	Values: LGBTQ	From interview with Rebecca Friedrichs: <i>"all these different genders they've come up with, telling teachers we have to lie to their parents, let kids be a different gender and not tell their parents about it... All of that is coming from the union, all of it, 100%."</i>
	Values: what should be taught in school	From interview with Rebecca Friedrichs: <i>"Restorative justice. That sounds so nice. But ever since they brought in restorative justice a little kid can throw a chair at another kid and cause mayhem in your classroom. You send them to the principal for discipline. They get zero discipline, sometimes they get a lollipop."</i>
	Values: American	From interview with William Messenger: <i>"the idea of being compelled to [pay dues], somebody being compelled to do something against their will by the government just sort of strikes me as wrong."</i>
Union Representation: 21 total tags	Last in, First Out	From interview with Rebecca Friedrichs: <i>"Last hired, first fired, okay. This is a union thing. It's like, if you have to let people go, shouldn't you let go the ones that are ineffective, abusive, not teaching the kids to read or whatever, and keep the good ones? They can't do that."</i>
	Quality of representation	From interview with Jackson Reese: <i>"it was down in Santa Ana, probably five, six years ago, that the Santa Ana Educators Association pushed for raises... All but one [school board member] greenlit the raises... [they] didn't realize when they signed off on the raises, they'd have to fire about 120 teachers, because they didn't actually have it in the budget."</i>
	Political representation	From interview with Max Nelson: <i>"for most people it's a realization that their union is not aligned with their political views or their personal values. That tends to be, I think, the biggest motivator [for leaving a union]."</i>
Problems with unions: 37 total tags	Union democracy	From interview with Rebecca Friedrichs: <i>"A teacher like myself said, 'We think teachers should have to be experts in the subject in which they teach.' They rejected that... Every teacher wants that. But what did they do? They pass LGBTQ stuff? Open borders, defund the police, stop charter schools?"</i>
	Unions influence on businesses	From interview with Jackson Reese: <i>"we realized that sitting back and writing these really well researched papers wasn't actually doing anything when it comes to helping people understand or create concrete policy changes that can make pro-business ideas attractive again in this state."</i>



	Union lies/deceit	From interview with Max Nelson: <i>"All [the unions] need is to get somebody to say yes in a phone conversation and they can sign them up for nearly irrevocable dues collection."</i>
	Union policies	From interview with Max Nelson: <i>"we oppose things like Union release time, which is a practice in which a public employer permits its employees to perform union work on the clock, while still receiving their full public salary."</i>
	Cost of dues	From interview with William Messenger: <i>"one of the biggest reactions we saw after Janus... is unions and government employers putting restrictions on when employees can exercise their rights to stop paying union dues."</i>
Unions and government: 71 total tags	Lobbying	From interview with Rebecca Friedrichs: <i>"The unions are behind the lockdown. They're 100% behind that. They had a backroom deal with the CDC to keep the schools closed... They lobby for curricula, they lobby for policy."</i>
	Influence of unions	From interview with Jackson Reese: <i>"there's a pay to play to all politics, but when you are raising money out of the pockets of your average employee and that money goes to fund the political campaigns of the person who sits across from you at the negotiating table we have a system that is just built to be corrupt and built to bend towards the union."</i>
	Public spending	From interview with Jackson Reese: <i>"the union is so long standing and so institutional and has a vested interest in every decision that a school board member or city council person makes in this area."</i>
	Political spending	From interview with Rebecca Friedrichs: <i>"They just want to use us to fund a political agenda."</i>
	The leftist agenda	From interview with Rebecca Friedrichs: <i>"I think if America goes down the road of communism, socialism, the unions will play a massive role... And they will control our leaders. I think they control the Biden administration. They put them in office or they helped. They control our schools right now. They control the FBI. I mean, they control the CDC."</i>
Schools: 23 total tags	Problems in schools	From interview with Jackson Reese: <i>"ultimately the people that really benefited there were the longest standing members of the teachers union. They were the ones that got the best raises, and they were the ones that were safe. But it wasn't actually a policy that benefited the kids."</i>
	Students	From interview with Rebecca Friedrichs: <i>"[the unions will] tell them, 'Oh, these poor little kids, they can't afford glasses.' Well, we already had programs to get them free glasses."</i>

Table 2

## Antonin Scalia's death gave CFT more time to prepare for the impact of *Janus*

Public sector unions began to prepare for the loss of agency fee payers before *Friedrichs* was heard by the Supreme Court in January of 2016. For CFT, this meant a recommitment to organizing new members, new funding and grant programs to support locals and a heightened focus on member involvement in campaigns. According to CFT President Jeff Freitas, “Contract campaigns, political campaigns, anything like that had to be some type of member driven program. So we did that even before *Friedrichs*. And that built into a building powers campaign... that was specifically responding to *Friedrichs*.” In addition to member-focused organizing that strengthened the union's base, CFT made cuts to programs and events and eliminated positions when staff retired. Josh Pechtalt, who was the President of CFT during the *Friedrichs* case, explained “that meant looking at every aspect of what we were spending money on and seeing if it was a necessity because we expected to lose lots of money.” The cuts went deep and often were not without opposition: a bimonthly publication for members that Pechtalt spoke highly of transitioned to online-only and an annual convention became a bi-annual convention after much consternation from some members of the union's executive board. Dashiell Johnson's local opted for a bluetooth speaker instead of a live band at its member barbecue and cut the small office space it rented. “We cut costs wherever we could,” Pechtalt said, “without really injuring the functioning of the Union.”

These decisions meant that the union was prepared when *Janus* was heard two years later. CFT communications director Matthew Hardy explained that “because *Friedrichs* failed, it's not like the labor movement was caught on its heels.” Based on predictions developed by the AFL-CIO, CFT had prepared for a loss of funding between 10% and 15% of total revenue. At the time *Janus* was decided, agency fee payers made up about 11% of CFT's revenue. The union would lose the entirety of this revenue stream and expected to lose some dues-paying members as well. According to Freitas, CFT membership actually increased by 1% in the year after the decision. CFT's budget cuts and modest membership growth resulted in significant increases in net income and created a substantial cash reserve. Then, just as the union began to build back its programs, COVID halted in-person meetings and travel—two major areas of spending. “There [were] a lot of savings there,” said

Freitas. Soon after *Janus*, CFT found its finances in a perfect storm borne out of the *Friedrichs* deadlock, COVID and deep budget cuts.

## Personal relationships with members, member activism and member leadership are foundational to and result from good organizing.

Anticipatory financial planning for the loss of agency fee payers wasn't the only benefit afforded to CFT when *Friedrichs* deadlocked. Two rounds of Supreme Court Cases that were aggressively advanced by members of the State Policy Network indicated to the union that right-to-work groups would not stop their campaign once agency fee had been revoked. CFT communications director Matthew Hardy explained "when the SPN groups pursued their legal strategy, folks recognized the weight of that and that we had to be at our best." In large part, "be[ing] at our best" meant a serious recommitment to organizing and member leadership.

This recommitment was evident in the nature of the cuts CFT made to its staff and in changes to the union's strategies in political and contract campaigns. According to Freitas, field rep positions—the union staff who negotiate and represent members—were trimmed in favor of more organizers. Even as the union made cuts to its staff and programs, the organizing department grew. This rebalancing didn't mean that negotiation and representation had been deprioritized though: Freitas described how "Contract campaigns, political campaigns, or anything like that had to be some type of member driven program." These changes freed up money and put the people who know workplace issues the best—members—in the driver's seat in contract negotiations.

Member involvement is foundational to CFT's organizing strategy and careful facilitation is an essential component of its long-term success. That means going beyond simply elevating members to leadership roles and instead building leaders who can empower and train other members. CFT local 6106 executive director Dashiel Johnson described how his local "hired for organizers that are member organizers... we meet, we talk about our goals, we have a strategy that guides our work every single week." This member-first organizing informs the local's "phone, banking, text messages... one-on-one conversations with... adjuncts about why it's important to get involved in the union, that's what's changed for us [since *Janus*]."

These strategies have been highly effective: Membership in Dashiel Johnson’s local increased from 56% in March of 2021 to 77% as of February 2023. These numbers would be positive for any public sector union, but for a local like Johnson’s which is located in conservative Orange County (home to the California Policy Center and For Kids and Country) and made up of contingent and part-time faculty it is remarkable.

The kind of member engagement and leadership building described by Johnson creates a pipeline of experienced organizers familiar with the membership’s issues who can continue to support the union for a long time—sometimes even after retiring from teaching. Former CFT president Josh Pechtalt described how retirees are often the most involved in political and contract campaigns because “They have the time, but they also have the collective memory.” And it’s not as if they have nothing to lose either; Pechtalt described how “the retirees fight like hell” for their health benefits because they understand that individually they have little power to stand in the way of changes or reductions to benefits. They need the union’s ability to protect its members’ benefits through collective action just as much as the union relies on their time and experience.

## Teachers strong values clash with the ideology of right-to-work groups

Most teachers hold progressive values that are not reflected by the activities of right-to-work groups. While it may be possible to get more conservative members to opt out of their unions by focusing on divisive figures or hot political issues (critical race theory and pronouns are two popular choices) the ideologies that right-to-work groups use to organize simply don’t hit home for most CFT members. CFT’s explicit focus on highly personal member engagement and member leadership grounds the union in the communities it represents—something that is far more difficult for a think tank without any kind of membership base or democratic governance structure to do. Even organizations like Rebecca Friedrichs For Kids and Country, which relies on Friedrichs background as a teacher, struggle to connect with the majority of CFT’s base because of their focus on conservative culture war issues. Friedrichs organization’s website, for example, contains a page labeled “SexXXX ed” ([forkidsandcountry.org](http://forkidsandcountry.org)) that rails against California’s sexual education curriculum and provides resources for parents to remove their students from the courses. This isn’t something that most teachers want or believe in and its inclusion as part of the right-to-work movement’s platform is off-putting to teachers that value

comprehensive sexual education curricula. According to Hardy, teachers “are rightfully suspicious of a random organization pressuring them to opt out of their union.” Right-to-work groups’ connection to teachers and their communities is tenuous at best and this creates a level of distrust from the first interaction members have, whether it’s through a mailer, phone call or website like optouttoday.com. “They aren’t in the community,” Hardy explained. “Teachers are rooted in their communities. That’s what the union is too.” This dichotomy is reflected in the ideological nature of right-to-work campaigns and the inversely practical nature of CFT’s campaigns. While right-to-work groups have recently attempted to alter sexual education and history curricula, CFT has focused on more material concerns such as a lack of air conditioning or unpaid office hours.

CFT recognized that although most teachers hold progressive values, the “ideological beliefs of [conservative teachers] that were agency fee payers... wasn’t going to change.” Even so, the vast majority of policy positions that CFT advocates for are specific to the needs of schools, students and teachers. “Our priorities right now are education, staffing crisis, the number of people that aren’t going into education,” Freitas described. CFT ensures that these positions have the support of members through a political program that is built around voluntary participation. CFT political activities are managed through its “Committee on Political Education” (COPE), which members can choose to contribute dues to. If members contribute, they can participate in COPE and vote on any of CFT’s political priorities. If they choose not to join COPE, they still have full membership in the union and can participate in every other element of the union’s democracy. By clearly separating its political activities from its representational activities, CFT ensures that its members don’t feel forced to support a particular political position: either they contribute to COPE and have a say, or they don’t participate in the political side of union membership at all. This clear delineation negates the right-to-work argument that the union’s political arm operates untethered from the wants and needs of its membership.

## Loss of adjunct faculty jobs, attrition from the profession and attacks on public schools are a challenge for CFT

Foremost among CFT’s political priorities is the protection of the teaching profession itself. Although interviews and analysis of union documents did not reveal significant membership losses from opt-out

campaigns, Freitas did mention that the union had seen “a slow decline [in some locals] due to our staffing crisis.” He explained “that’s due to the shrinking enrollment in California. We haven’t seen that due to membership loss.” Right-to-work group’s ideological campaigns have largely failed to lead teachers out of their unions but they have made teaching a generally more unpleasant profession. Additionally, right-to-work groups have supplemented their opt-out campaigns with pro-charter school efforts that sap resources from already underfunded public schools.

California Policy Center’s Jackson Reese expressed the sentiment that “conversations with politicians, one on one, a lot of just behind the scenes, government affairs work” makes up a large part of his organization’s work.” When the California Policy Center and its allies advocate for school choice and decreased public school support with claims like “progressive teachers unions, channeling George Wallace, are standing in the schoolhouse door doing their best to stifle educational freedom,” (Sand 2023) it’s easy to see why the unions that represent public school teachers are concerned. CFT local 6106 president Dashiell Johnson stated simply, “at the end of the day it’s politicians who govern our community college districts, and our state.” When groups like the California Policy Center enter the picture, the threat that public schools will be further defunded and more jobs will be cut only grows more severe.

# CFT Interview Coding

Tag Themes	Tag sub-themes	Example
Why teachers become and stay members (73 tags)	Benefits of contracts	From interview with Jeff Freitas: <i>“very quickly [teachers] see the union organizing for new contracts. The benefits are pretty apparent, increases in pay, health benefits. So there’s no mystery to the advantage.”</i>
	Education budgets	From interview with Dashiel Johnson: <i>“[the AFT] is pushing for policies that support public education from pre-K to higher ed and beyond. And those policies that they push for directly benefit us here in Orange County.”</i>
	Effective Representation	From interview with Dashiel Johnson: <i>“we just won paid office hours for our members.”</i>
	Loss of jobs	From interview with Jeff Freitas: <i>“We have seen a loss of teachers, slow decline, but that’s due to our staffing crisis. That’s due to the shrinking enrollment in California. We haven’t seen that due to membership loss.”</i>
	Policy goals	From interview with Matthew Hardy: <i>“We engage in practically driven, not ideologically driven politics. It’s not to impose our ideology on society unlike [right-to-work groups].</i>
	Problems in schools or improving schools	From interview with Matthew Hardy: <i>“[right-to-work] groups are a concern. They seek to damage public schools.”</i>
	Progressive values	From interview with Jeff Freitas: <i>“We... had a march from Bakersfield to Sacramento focused on some of our campaigns to get more progressive taxation and more progressive bills in the legislature.”</i>
	Students	From interview with Dashiel Johnson: <i>“It’s all a student aspect. So when we’re fighting for better working conditions, and fair working conditions, we’re fighting for better student learning conditions.”</i>
	Union democracy	From interview with Josh Pechtalt: <i>“I always thought it was to our benefit that we had this very high level of democracy.”</i>



CFT Strategy and Tactics (131 tags)	Organizing	From interview with Matthew Hardy: <i>“Unlike the California Policy Center we’re not selling something. We’re organizing people. People do this work because they fundamentally believe in the members and the students.”</i>
	Change in strategy since Janus/Friedrichs	From interview with Dashiel Johnson: <i>“I feel that we really brought it to a new level [after Janus] with hiring organizers, and just being really robust and intentional with our outreach.”</i>
	Helping members use public services (CALSTRS etc.)	From interview with Dashiel Johnson: <i>“We host an unemployment insurance clinic, we host a student debt clinic, we host a CALSTRS clinic, which provides information on the state’s retirement pension program for educators.”</i>
	In-person interactions	From interview with Josh Pechtalt: <i>“what the approach was [after Janus] was to double down on the organizing. And that meant going to people who were already union members, we went back to them, and got them to reaffirm their commitment to the union.”</i>
	Member engagement	From interview with Matthew Hardy: <i>“Agency fee had its drawbacks. You want people to be affirmative members: can they see themselves in the union?”</i>
	Member involvement in contract negotiations/campaigns	From interview with Jeff Freitas: <i>“Before Janus was Friedrichs, and knowing that was coming down, we focused on organizing our members... Contract campaigns had to be some type of member driven program.”</i>
	Member involvement with political campaigns	From interview with Jeff Freitas: <i>“we mobilized the members around this tax initiative, millionaire’s tax initiative... So prop 30, turned into prop five. Early on, we were mobilizing members around a progressive—at that time—progressive taxation.”</i>
	Member leadership	From interview with Matthew Hardy: <i>“One-on-one organizing and commitment to build leadership at the local level is the foundation of what makes a union effective for students and teachers.”</i>
Member Organizers	From interview with Dashiel Johnson: <i>“we have the executive board. We have a president. So all of those folks are members of the Union. And the union employs myself, and we also employ three member organizers.”</i>	

	Member-focused communications strategy	From interview with Jeff Freitas: <i>“during COVID We communicated with our members and that’s a big key to it is communicating and trying to be as transparent as possible. I had Facebook Lives every Friday, just to talk to the members... We wanted to be able to connect. We had town halls. And we’re using more of our webinar ability to be able to communicate with our members. So we drove that up now being back in person.”</i>
	Outreach to non-members	From interview with Dashiel Johnson: <i>“When humans do robust organizing campaigns, when we really focus on having those one on one conversations with people... we’re really able to get people involved, and people sign up for the Union in droves.”</i>
	Phone conversations with workers	From interview with Dashiel Johnson: <i>“we reach out to them by making phone calls, we phonebank our members every week, we’re not always able to get through our entire list, because like I said, there’s over 1000 of them.”</i>
	State/National union support	From interview with Josh Pechtalt: <i>“we used our resources, both at the state and the national level, to fund the [Janus] legal fight.”</i>
	Supporting retirees	From interview with Josh Pechtalt: <i>“the retirees are probably the most active group involved in political campaigns because they have the time, but they also have the collective memory. So, they make the phone calls. They do much of the legwork around political campaigns.”</i>
	Working with other unions	From interview with Jeff Freitas: <i>“we do try to coordinate because the health of labor in general is important. And, we’re less isolated then, you know, all the attacks are on us versus there’s more of us and we’re growing together. We’re just stronger together. It’s symbiotic.”</i>
CFT Challenges and Opportunities (70 tags)	Agency fee	From interview with Dashiel Johnson: <i>“we used to bring in more revenue through agency fees because everyone had to pay. Now, that’s not the case anymore, we’re reliant on members and member dues...”</i>
	Broader societal trends	From interview with Matthew Hardy: <i>“If you look at the strikes that just happened, there’s been a wave of union militancy. People understand that unions are important to jobs, retirement.”</i>
	Budget cuts	From interview with Josh Pechtalt: <i>“We did... an internal evaluation and cut costs wherever we could without injuring the functioning of the Union.”</i>

	Conservative members	From interview with Dashiel Johnson: <i>“our political program is designed to give our members a voice in the process. And we have members who donate to Koch, who are conservative. Generally our membership is left of center, but not everyone. But what I will say is we’ve been able to get everyone involved across the political spectrum. And members by and large understand that process and support what we’re doing.”</i>
	COVID	From interview with Josh Pechtalt: <i>“I would think the value of the Union has been underscored with COVID.”</i>
	Finances	From interview with Jeff Freitas: <i>“all those cuts that we did to our budget, were then turned into a reserve. And then COVID hit and then there were other savings while we were trying to build back our programs.”</i>
	Lawsuit (Friedrichs)	From interview with Matthew Hardy: <i>“Because Friedrichs failed, it’s not like the labor movement was caught on its heels.”</i>
	Lawsuit (Janus)	From interview with Jeff Freitas: <i>“[right-to-work groups] didn’t get the outcomes that they wanted from Janus. I don’t know if they’re regrouping or reconsidering, but they’re still sending things home and emailing people to quit.”</i>
	Losing members	From interview with Jeff Freitas: <i>“our biggest struggle with member mobilization, organizing members, is that we have a large group of contingent faculty with high turnover rates.”</i>
	Member involvement in their communities	From interview with Matthew Hardy: <i>“Teachers are rooted in their communities. That’s what the union is too.”</i>
	RTW Groups failure to connect with members	From interview with Matthew Hardy: <i>“People are rightfully suspicious of a random organization pressuring them to opt out of their union. They aren’t in the community.”</i>
	SPN Affiliates	From interview with Jeff Freitas: <i>“They have an initiative that they put on the ballot, faux effort to try to protect students and their rights, which they don’t understand that working conditions are learning conditions, but if that were to pass, it could be a law that could undermine collective bargaining for educators, specifically educators, not general bargaining.”</i>

Values (26 tags)	Political values	From interview with Dashiell Johnson: <i>“we’re not just going out and endorsing people who we like for subjective reasons. We’re supporting people that support our students, support our colleges and support policies that make our working conditions more equitable.”</i>
	Teachers values	From interview with Matthew Hardy: <i>“Teachers look at the world based on their values.”</i>
	Values: race/racial justice	From interview with Matthew Hardy: <i>“Look at the organizations that have investigated these other groups and you’ll see the ties to other conservative groups that are committed to a racist ideology.”</i>
	Values: religion/gender/LGBTQ	From interview with Jeff Freitas: <i>“The only time [abortion] ever came up in the 30 years I’ve been having these conversations was this last year. otherwise CFT has never weighed in- we did weigh in on Prop 1 that I guess makes that person believe that... So I think there were those ideological beliefs of people that were agency fee payers, that wasn’t going to change. And we still get one or two people that quit. It’s not this mass exodus. It’s a sprinkling. It’s a very, very small percentage.”</i>

Table 3

## Recommendations

### Unions should cut unnecessary expenses wherever possible and redirect funds to organizing and member empowerment

CFT is financially stable despite the hit that the union’s finances took from the loss of agency fee payers immediately after *Janus*. Interviewees indicated that forward-thinking financial planning at both the state and local level were essential to ensure the long-term financial health of the union. From cuts to staff and department budgets at the state level to slightly less chic barbecues for members and sales of local offices, CFT built a significant financial cushion prior to *Janus*. According to CFT president Jeff Freitas and Communications Director Matthew Hardy, the financial hit wasn’t nearly as severe as expected which left the union with unexpected resources they could use for new member organizing.

Former CFT president Josh Pechtalt indicated that new member organizing was always important to CFT, but the *Janus* decision necessitated a new level of organizing activity. For any union, healthy membership growth means healthy financial growth, too. At this point it is too late for any unions that did not proactively plan for the impacts of *Janus* to correct their error but it is never too late to reprioritize new member organizing. Nothing else can secure a union's long term finances—and sometimes this means making cuts to important programs or events, as CFT did. While getting rid of barbecues and annual conferences might not be fun, they aren't make or break issues for union members. Teachers are practical people who will respond to the results that their union delivers in the workplace. Especially now, unions should not be afraid to de-prioritize any program that does not directly contribute to a stronger membership base and financial position.

## Empowered members can fill roles traditionally held by staff—a practice that will save money and build rank-and-file leadership

CFT uses many of the same routes of engagement that anti-union groups use: phone calls to members, one-on-one meetings, mailers. But because CFT has invested time into getting to know their members' issues, they are able to have more meaningful interactions than groups engaged in opt-out campaigns. CFT's ability to reflect teachers' values in their representation and organizing was identified as crucial to the union's success by every CFT staffer interviewed for this project.

This is a lesson that may seem obvious; workers will align with the groups that show interest in them. But CFT's level of member engagement is unique—especially in terms of the changes it made to its staff makeup in response to *Janus*. The elimination of field rep positions allowed CFT to hire more organizers—and more organizers meant that the union was better able to train its members to fill the role of field reps. This is a measure that unions may hesitate to embrace as it requires the elimination of staff jobs, but the experience of CFT indicates that these roles perhaps should never have been staff jobs in the first place. Why spend money on a field rep that doesn't work in the workplace they represent when a few members of that workplace—empowered by an effective organizer and supported by their local—could speak from personal experience in contract negotiations?

If unions can build out a legitimate structure to train members in contract negotiation, the replacement of field reps with member-negotiators could be highly positive for unions in both the public and private sectors.

These kinds of changes demand the level of engagement that CFT staff described as crucial to their member retention. Public sector unions should engage with their members as frequently as possible in order to build meaningful relationships; unions that know their members are better able to identify individual member's skills and ability to fill leadership roles (like negotiating contracts). Ultimately, union organizing is about empowerment and a culture of worker empowerment cannot be built without strong relationships between union members and staff. In conservative Orange County, home of the California Policy Center, Dashiell Johnson's CFT local was able to not only negate the effects of opt-out campaigns but increased the union's membership to its highest ever level with intentional member outreach. Johnson described how monthly calls to each of the locals members has been an important way to build trust between the union and its constituency.

Regular, in-person meetings and actions were also important at both the state and local level. In person activities are a foundational piece of relationship building between the union and its members and between members themselves. Taking action with one's union brothers and sisters—whether that's door knocking for a ballot initiative or showing up to support another union that's on strike—builds solidarity by showing members that their union is an organization made up of people with similar experiences and political and workplace demands.

Union membership involves a degree of trust between fellow members and between members and the union itself. In addition to intentional, regular engagement, members need to be involved in decision making at all levels of the organization. CFT is stocked with teacher leadership: Jeff Freitas and Dashiell Johnson are both former public school teachers, along with many others within CFT's state and local leadership structures. Teacher involvement doesn't only exist in the organization's leadership positions though. All of the organizers in Dashiell Johnson's local are also teachers—a dynamic that holds true in locals throughout the state. The conversion of staff field reps to member negotiators builds trust too. Members give up a not insubstantial portion of their pay to help build an organization that they trust to advocate on their behalf. When they or their coworkers lead contract campaigns, the concessions required in most negotiations (often a point of tension within unions) are much easier to swallow than if they'd been delivered by a relative outsider.

These measures are the union's best defense against opt-out campaigns. When teachers see their experiences reflected in the people they interact with regularly in their local and the union's elected leadership it's easier to have confidence in the organization. Extensive teacher leadership and involvement was identified across CFT interviews as a critical advantage the union holds over right-to-work groups. The more CFT feels like a group that is by and for the people it represents, the more right-to-work groups feel like pernicious outsiders when they deliver an email or mailer or come knocking on a union member's door. When unions make personnel decisions—whether it's for a part time organizer position or an election for the president of a local or state chapter of the union—experience in the workplace that the union represents should be given significant weight.

## **Public Sector Unions must ensure that their political activities are explicit in their support for the workplaces they represent.**

Interviews with right-to-work groups revealed that members that disagree with the political priorities of their union are the easiest to encourage to opt-out. This poses a challenge for unions: how can members with views that are in the minority see themselves represented in the union? Unions do not need to elevate members with views that are contrary to those of the majority to positions of power, but they would be well-served to ensure these members are able to engage in union democracy. That means a union-wide commitment to democratic governance of the organization and an internal education program that teaches members how to effectively express themselves within the governance structure of the organization.

Nonetheless, right-to-work groups will always be eager to exploit the fact that teachers unions spend more on politics than almost any other group in the United States. The alleged political misrepresentation of members and the outsize political influence of unions were mentioned frequently in right-to-work group interviews. Often, this involved tying divisive political figures, like Joe Biden, or controversial decisions, like California's vaccination requirement for public school teachers, to unions. By engaging in "practically driven, not ideologically driven politics," and giving members control over the union's political direction, CFT is able to counter the claims that their political advocacy is not representative. Other unions would be well-served to follow CFT's model. The more obvious it is to members and the public that the union's political decisions are

made by members and not high-level staff the more attractive membership will appear to workers of all political stripes.

More importantly, public sector unions can use their political campaigns and the ways in which they frame these campaigns to negate right-to-work group's attacks on public sector workplaces. With the emergence of the "school choice" movement, this is especially important for teachers unions. Unions are generally progressive organizations inclined to support the full range of progressive causes, but the more CFT's messaging is able to frame every political campaign as a battle for their members jobs the broader their appeal will be. Right-to-work groups frequently suggest that unions obscure leftist goals in their policy proposals. This is an accusation that public sector unions should lean into. COPE committees ensure that financial contributions to the unions political campaigns are entirely voluntary and the union's general leftwards lean means that progressive policy will likely be a priority for CFT and other public sector unions in perpetuity. There is no reason to pursue policy that is any less progressive because of right-to-work group's attacks, but if unions can achieve these goals through policy that has the primary intent of strengthening public sector workplaces their policy can appeal to all members. CFT's prop 30 and prop 5 campaigns were an excellent example of this. Jeff Freitas described how *"we mobilized the members around this millionaire's tax initiative... prop 30, turned into prop five. We were mobilizing members around progressive taxation."* The "millionaires tax" was strongly opposed by CFT's right-to-work and pro-school choice opponents because it would generate more funding for public schools; the California Policy Center claimed that, "if anyone is going to fleece the richest Californians, it's going to be teachers' unions." (California Policy Center 2022) But by framing Prop 5 as a way to shore up the workplaces they represent, CFT was able to mobilize members in big numbers to support the measure.

## Right-to-work groups cannot be ignored

CFT staff expressed minimal concern over opt-out campaigns in interviews. Accountable Northwest's research showed that they haven't been very successful and CFT staff indicated that opt-out campaigns have not been a significant concern to them. While it may be true for CFT and other unions with strong organizing programs and good member relations it would be a mistake to ignore the threat that these organizations pose.



Even though right-to-work group's opt-out campaigns have been largely unsuccessful up to this point, their campaigns have rapidly increased in scope and complexity. Prior to the *Janus* decision the public sector opt-out campaign didn't exist. In just over four years, the right has mobilized a nationwide network of organizations that produce a voluminous amount of anti-union and pro-charter school research, engage in sophisticated and targeted organizing and maintain deep connections with politicians across state and local government. Regardless of the impact of these groups as of yet there are donors that believe in the efficacy of their work and endow opt-out campaigns with financial resources that grow vaster every year.

This research captured the state of opt-out campaigns at a moment of growth, with particular regard to their activities in California. With greater funds, anti-union groups are certain to increase the volume and quality of their research and organizing. Just as their organizing has increased in sophistication with greater funding, so too will their political influence. This is despite the fact that most of these groups are 501(c) 3 nonprofits and as such only 20% of their activities can be political in nature. One of the groups profiled in this research, the California Policy Center, indicated a fairly high level of political activity for a nonprofit. Jackson Reese described a network of over 1000 local elected officials his organization calls on a regular basis, regular engagement with candidates running for office, and "behind the scenes government affairs work." California Policy Center may or may not have crossed the line in terms of its relationships to candidates for public office and those in public office. However, if a 501 c (3) engages in *any* lobbying or political activities the expenditures related to these activities must be included in schedule C of the organizations yearly 990 filing. If the organization did not engage in any political or lobbying activities, schedule C does not need to be included. California Policy Center's most recent form 990, publicly available on the IRS's website does not include a schedule C, despite the fact that the vice president of the organization described a high level of political activity. As such, California Policy Center is likely in violation of federal nonprofit tax regulations.

The tax filings of anti-union groups contain a host of information—from total revenues and donations over time to lists of organizational assets to salaries for the highest paid staff—all of which can be used to better understand how these organizations operate, the scope of their resources and their supporters. Sometimes, unions may even find that these groups don't play on a level (or legal) field in terms of their political activity. Regular check-ups on and tracking of anti-union groups tax filings should be a regular practice for the labor movement.

Additionally, 501(c)3's are required to provide an equal opportunity for political candidates seeking the same office to participate in the forums they host. Teachers union's especially should hold right-to-work groups accountable to this statute. When groups like the California Policy Center host forums with pro-school choice candidates, teachers unions should make sure that pro-public school candidates show up too. It is crucially important for teachers unions to delegitimize the growing school choice movement and every time a right-to-work 501(c) 3 hosts a candidate forum unions have an opportunity to affirm the value of well-funded public schools to the people that need to hear it the most.

Teachers unions need to engage in the same kind of political education of candidates for state and local elected office as right-to-work groups. This presents an excellent opportunity for effective member engagement. A candidate who gets "grab[bed]" by Jackson Reese during their campaign may be more likely to listen to a public school teacher that can counter his organization's pro-charter view by speaking from experience.

## Conclusion

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This research is intended to increase understanding of how public sector unions can succeed in an increasingly challenging environment. Through an interrogation of past, current and future labor movement trends and an analysis of members and finances, the California Federation of Teachers was identified as a union uniquely positioned to answer this question. This project initially intended to only examine CFT's actions. However, right-to-work groups, school choice and right-wing anti-union financing proved to be far too important for this research to ignore. With this in mind, key figures in the right-to-work movement from the *Friedrichs* and *Janus* cases, the California Policy Center, the Freedom Foundation and the National Right to Work Legal Defense Foundation were contacted and invited to participate in this study. While they may not agree with my motivations or findings, I believe that their participation in interviews and the financial analysis of their organizations was crucial in developing a full understanding of how effective public sector unions should operate.

This analysis showed that right-to-work groups have gotten significantly stronger since the *Janus* decision and have launched opt-out campaigns at a never before seen degree of scale and coordination. The State Policy Network serves as a sort of clearinghouse, convener and coordinator for these groups—69 in total—which attack public sector unions from multiple directions. In addition to the opt-out campaign, SPN affiliates advance policy through networks of elected officials, launch lawsuits and weaken public schools through the “school choice” movement.

That CFT has not only survived but grown its finances and membership in the face of these challenges is a testament to the efficacy of the strategic and tactical decisions that shape this paper’s recommendations. Elimination of unnecessary spending in favor of more organizers and organizing, a reorientation of members into roles traditionally filled by union staff and practical policy advocacy are tied by a common thread: the member must be the union’s first priority in every aspect of its work. To simply gain members is not enough. For these strategies to be effective, unions need to wholly commit to building the members their union needs. Whether that’s organizers, negotiators or phone-bankers; artists, musicians, rally goers; letter-stuffers and table-tenders—all of these types of members are both valuable and buildable. This research seeks to make it easier for unions to determine whether they have invested the time in member relationships and union commitment necessary to facilitate a resilient, empowering organization.

## Limitations

The main limitation that arose through the course of this study was an inability to interview CFT members. Although this research focused primarily on the threats unions face and the specific strategic actions that CFT has taken to counter those threats, members’ voices would’ve added a greater degree of depth to the qualitative data. CFT was not willing to put me in touch with any of its members within the timeframe of this project and repeated attempts to contact members through school directories were rebuffed by the president of the teachers’ local. In fact, the only teachers union member I was able to interview was introduced to me through Rebecca Friedrichs. Although my phone call with Susan Halvorson was interesting, her position as a retired member of the California Teachers Association and specific focus on the prohibition of LGBTQ+ content in schools resulted in an interview that was difficult to draw conclusions from or place in conversation with other interviewees.

Membership data was also difficult to come by. This posed a challenge as CFT's claims of recent membership growth conflicted with anti-union group's claims that their campaigns had achieved high opt-out rates. Despite my obvious bias towards the labor movement, I believe that it is just as important to scrutinize the claims of labor unions as it is the claims of right-to-work groups—the movement cannot grow or thrive if it lies to itself. I believe that I was able to adequately verify the union's claims by analyzing publicly available executive board meeting minutes from CFT locals that reported on membership gains and losses. Many locals do not share their executive board meeting minutes publicly and of those that do, only a handful report on membership regularly. This is an issue that likely does not have a better solution; unions hardly ever share membership data with other unions or the AFL-CIO and certainly do not disclose this information publicly.

I believe that strong unions and public schools are foundational to an economically just society because of my educational and family background. As the product of both a union family and a public K-12 education, I am highly biased towards unions and public schools. This research did not intend to obscure this fact and explicitly states its intention to benefit public sector unions. Nonetheless, I do not believe that this research would be useful to the institutions it is intended to support if it were grounded in fallacies and as such I have attempted to ground my analyses of union health in as many primary sources as possible. Tax returns, audits and executive board meeting minutes, not my own opinion, informed my financial analyses of CFT and right-to-work groups.

## Next Steps

This research primarily focused on the strategies and tactics employed by CFT and anti-union groups. However, the people, businesses and organizations that influence these groups are just as important. Publicly available tax documents reveal little information about these right-to-work organization's donors and major influences because nonprofits have significant leeway to protect their donors' identities. Accountable Northwest, among other labor affiliated groups, has conducted research on how opt-out campaigns are financed but the rapidly evolving nature of these organizations and the obfuscation orchestrated by SPN backed groups like People United for Privacy means that gaps in the labor movement's understanding of opt-out campaign financing appear as quickly as they are filled.

CFT is certainly not the only union engaged in union organizing that is worth studying. With strong union campaigns at Amazon, Starbucks, REI, Chipotle and beyond, the private sector holds innovative and independent labor organizations that I am certain all unions can learn from.

Ultimately, this research and any realistic conversation about unions must circle back to the concerns of members. To date, there are strikingly few large-scale studies of union members and their concerns, beliefs and motivations for being involved in the labor movement. It is my hope that the unions use their resources to engage in more concentrated studies of their membership. This paper has led me to believe that such inquiries are both extremely interesting and important to the long-term health of unions in America.

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# Appendices

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Appendix A: Interview Questions:

**CFT Staff interview questions:**

- 1. Please describe your role and responsibilities in the union**
  - a. How do you engage with members?
  - b. How do you plan or execute organizing strategy?
- 2. What did member engagement look like before *Janus*?**
  - a. How often did you engage 1:1 with members? In small groups? With the entire workplace or local?
  - b. Did you engage with all members, or just the most active members?
- 3. When did the union start to make decisions with the understanding that *Abood* was likely to be overturned?**
- 4. How did member engagement change once the union began to operate with the assumption that *Abood* would be overturned?**
  - a. Did 1:1 member engagement increase or decrease? In small groups? With the entire workplace or local?
  - b. What were the unions strategic priorities at this time?
    - i. What worked well/didn't work? What got members to engage with the union more or become members? What turned them away?
  - c. How did budget priorities change? What did the union spend more or less on? Were any projects or roles eliminated? Added?
- 5. What did the typical member look like before the *Janus* decision? How were they different from the typical agency fee payer in terms of attitude towards the union or employer or their perception in the workplace?**
  - a. What were some reasons people went from being agency fee payers to members? Members to agency fee payers?
- 6. How did member engagement change once *Abood* was overturned?**
  - a. Did 1:1 member engagement increase or decrease? In small groups? With the entire workplace or local?
  - b. What were the unions strategic priorities at this time?

- i. What worked well/didn't work? What got members to engage with the union more or become members? What turned them away?
  - c. How did budget priorities change? What did the union spend more or less on? Were any projects or roles eliminated? Added?
- 7. **What does an organizing conversation with a worker look like now? What did it look like before *Janus*?**
- 8. **What hasn't worked in terms of member recruitment/retention?**
- 9. **How has the union changed the most since *Janus*?**

**Right-to-work interview questions:**

1. **Could you describe the work that your organization does and your position or role in the organization specifically?**
2. **Could you describe what drew you to this work and your personal motivation to be involved in this?**
3. **Could you describe the impact that *Janus* was expected to have on public sector unions?**
  - a. Has it had the results that your organization expected from the decision?
4. **Could you tell me a bit about the influence that teachers unions have in public schools?**
5. **Could you tell me about how the Friedrichs v. CTA lawsuit began?**
6. **How did you/other plaintiffs, CIR and other groups create a public narrative around this case?**
  - a. Did you reach out to other teachers or conduct public education campaigns about the case or unions?
7. **From what I've read about the case, it sounds like *Janus* and the Friedrichs case that preceded it were helped along by a pretty coordinated group of policy centers similar**

to yours. Could you describe your relationship to these other groups and specifically the State Policy Network?

**8. Could you describe how Friedrichs informed Janus?**

- a. Were you, Center for Individual RIghts, or any of the other Friedrichs plaintiffs involved in Janus?

**9. What lessons did you learn from Friedrichs that you applied to Janus?**

**10. How did you support the Janus plaintiffs?**

**11. How did the groups involved in *Janus* make strategic decisions?**

- a. Was this led by one person or group in particular?

**12. What role did Mark Janus and other public school teachers play in the *Janus* campaign and your current campaigns?**

**13. What kind of opposition were you up against in your case?**

- a. What did CTA and other unions do to strengthen their position in the lead up to the case?

**14. What did their legal strategy look like and why didn't it work?**

**15. What do you think was going through the heads of, say the presidents of the teachers unions in California when *Janus* was decided?**

**16. What do you think is the future of unions in America?**

- a. What kind of role do you think unions should play in this country? Do unions not have a place in the society we have today?
- b. Are unions at odds with American values?

**17. What are some current or future goals related to your organization's work concerning unions, especially public sector unions?**

- a. Are you all working on any campaigns in coordination with the state policy network like you did with *Janus*?



- 18. Does your organization take inspiration from the original proponents of RTW, and is finishing what they started with a RTW law in California a goal for your organization?**
- 19. Do we need RTW laws for the same reasons RTW advocates said we needed them in the 1940's?**
- 20. One of the critiques of RTW that I've heard is that RTW comes out of racist ideologies or was originally pushed by people who held racist views. How do you and your organization respond to those kinds of claims?**

## Friedrichs v California Teachers' Association Talking Points

### Argument One:

**Right now, teachers' rights are being trampled in the United States. They're being trampled by laws that force us to fund unions – even when we disagree with their positions in and out of the classroom.**

- Teacher's dues, which average \$1,000 annually, are split into two portions: the collective bargaining portion is about 65% of the dues, and about 35% of teachers' dues go to political activities – many of which teachers don't support.
  - Opting out of political dues is a purposely difficult and confusing process, and those who exercise this right are ostracized, singled out, and intimidated, so most avoid it.
  - Even the money spent for collective bargaining is used for political purposes, and under the law we cannot opt out of these dues.
  - The problem is with issues inside the classroom and outside the classroom –tenure and vouchers to influencing national politics.
    - When teachers exercise their rights to opt out, they lose the “benefits of membership,”
      - liability insurance
    - the right to vote within collective bargaining even though they're paying 100% of the CB dues
      - the right to serve in union leadership
  - all rights of membership
  - The Union is for tenure – for protecting teachers even when they're no longer effective in the classroom.
  - The Union is against vouchers – against supporting poor families who would like to rescue their children from failing schools.
  - The Union is also taking a stand that would put the rights of sex offenders over the rights and safety of school children. In just the last few months, NEA –the largest and most powerful teacher's union in the country – came out against a bi-partisan bill that would prohibit convicted sex offenders, murderers, and kidnappers, from working in schools. I don't believe in allowing these people in our classrooms
    - and neither do the teachers I know
- yet we're forced to support the unions that want to allow this to happen.

**People should be able to decide for themselves whether to join a union and support its activities.**

**Argument Two:**

**The unions are increasingly out of touch – with what’s happening in the classroom – in the economy – and in society. And that is hurting both teachers and students.**

- When the unions started at the turn of the last century – they focused on individual rights. We’d love them to get back there.
- Instead now, they’ve become what they used to fight -- a powerful, entrenched organization more focused on self-preservation than educating children and protecting teachers.
- Americans don’t believe unions help education. A recent Phi Delta Kappa/Gallup Poll found that nearly half of all Americans believe unions had hurt the quality of public school education in the United States.
- A recent **Gallup Poll found that 82 percent of Americans agree that “no American should be required to join any private organization, like a labor union, against his will.”**
  - As a teacher I see this every day but because the unions have so much control over us, teachers are afraid to speak out on this issue.
    1. For example – they control our email. As part of the collective bargaining agreement the union gets to censor and decide what emails teachers are able to send and receive.

OR

Teachers are subjected to constant political manipulation during mandatory staff meetings. The unions strong arm teachers on issues such as opposing vouchers – then they spend tens of millions of teacher funded dollars, and use the coerced assistance of teachers to help block the passage of student friendly ideas like vouchers.

**The time has come to put individual rights over the rights of powerful unions. We just want a level playing field. We want what’s fair.**

**If unions are really the best option, teachers will join them.**

**Argument Three:**

**This is about our 1<sup>st</sup> amendment rights of free speech and free association. It’s about a small group of courageous teachers standing against a giant and powerful union. It’s David vs. Goliath.**

- What we're asking for is simple. We just want teachers to be able to make the decision for themselves - **without fear or coercion** - of whether or not they want to join a union.
- The Supreme Court has allowed this basic right for most Americans for nearly 100 years, but they allowed an "exception" to the rights of teachers and some other public employees, in order to create "labor peace."
- 100 years ago, this may have made sense – because unions were fighting for workers – but now unions are pursuing their agenda – regardless of how the workers feel about it.

I thought I lived in a country that, as Abe Lincoln said, was "of the people, by the people, and for the people." Instead, because of forced unionism, it's become a country that is "of the unions, by the unions, and for the unions."

**The only court in the country that can vindicate teachers' rights to free speech and free association is the Supreme Court. Our goal is to get to the Supreme Court as quickly as we can.**

**It's the right thing to do.**