



## Executive Viewpoint

Kevin S. Casey, Executive Director

### Janus vs. AFSCME

related conduct is political speech because it impacts public policies and the allocation of public resources, and thus constitutes political speech that is protected by the first amendment to the U.S. Constitution. Should the USSC rule for the plaintiff (and overrule its 1977 *Abood* decision), public employees who decline to join their union may not be assessed agency fees at all, regardless of how those fees were intended to be utilized. This will result in a loss of income (and influence) to unions, the extent of which is currently unknown.

There can be no serious debate that the *Janus* case constitutes an attack on unions. After a review of IRS filings, the Economic Policy Institute concluded that the *Janus* litigation has been funded by deep-pocketed anti-union conservatives such as the Walton Family Foundation, the DeVos Foundation and the Koch brothers, among others. While one can only speculate as to their motivation in funding this litigation, it is well documented that those represented by unions earn more and enjoy

better working conditions than their unrepresented peers, and that unions generally donate more money to democrats than republicans.

So, if Mr. Janus prevails, what does it mean for local administrative bargaining units, and what does it mean to SAANYS? Right now the number of agency fee payers among administrative units is miniscule. If it becomes law that agency fees may not be collected at all, it is reasonable to assume the numbers of those who decline to join the union may grow. However, the union must still represent those occupying titles in the bargaining unit. Those who decline to join the union will be people who are willing to benefit from the unions' negotiations and contract enforcement paid for by their colleagues, but not them. Those who are comfortable being free-riders. Those will be people who will forego individual (non-contract related) legal protections, as the unions' obligation does not extend that far. Those who are comfortable with taking the risk that they will not need legal services, or are

willing to pay privately hired attorneys if they do. Those will be people who do not value nor participate in concerted advocacy to advance their profession.

SAANYS does not intend to reduce the services that it provides to its members, although if its affiliated bargaining units are reduced in size it is likely to adversely impact the membership of SAANYS. It is incumbent upon SAANYS to deliver value to its members, and incumbent upon both SAANYS and local unit leaders to communicate that value to those who occupy titles represented by the bargaining units. There is no question that we are more effective when together we are pulling in the same direction. The local units and SAANYS work hard to advance the professional interests of their members. The free-riders should not expect the same support from the Walton, DeVos, or Koch families. ■

By now many of you have probably heard of *Janus v. AFSCME*, a case argued before the United States Supreme Court (USSC) on February 26, and expected to be decided by the end of June. The plaintiff contends that being required to pay agency fees (sometimes referred to as "fair share fees") as the law currently allows, violates his first amendment free speech and association rights.

In 1977, in *Abood v. Detroit Board of Education*, a unanimous USSC upheld the collection of agency fees by unions to help cover the costs of collective bargaining and contract administration and enforcement. Monies utilized by the union for political speech would have to be returned to

an agency fee payer (an individual who chose not to join the union and thus distinct from a dues paying member of the union) upon an application for a rebate. Since the percentage of agency fees utilized for political speech is typically low, and the percentage used for contract negotiation, administration, and enforcement is not refundable, few agency fee payers bother with the rebate application. The rationale applied by the *Abood* court to justify its decision upholding agency fees is that since the agency fee payers benefit from collective bargaining, they should help pay for it, and not be "free-riders" on the shoulders of their dues-paying colleagues.

Janus argues that when negotiating with a public employer all negotiating

## The Importance of Highlighting the Best and Brightest!

Sponsor Opinion Piece by Scott B. Crowder, CEO, Educational Vistas, Inc.

One of the advantages of working in the educational market place for twenty-five years is that you meet the most interesting professionals and are exposed to a wide array of innovations, products, and services. We have developed

an EVI Partnership Program that allows us to introduce educational practitioners, innovators, and facilitators to the administrative leaders across New York State. We strongly believe in promoting these NYS educators and the

insights, instructional improvement processes, and unique content they offer to our districts.

We would like to introduce all of you to Mr. Ralph Singh and his Wisdom Thinkers Network (wisdomthinkers.org.) He has spent the last 40 years of his life promoting strong values in education and public life, and bringing people of diverse backgrounds together to find a shared narrative towards peace. Whether it is character education, community engagement, oral history



projects, or his summer youth institute, he and his group of nationally known speakers and trainers work with students and staff through a multicultural lens to both improve school climate and expand a shared-school culture of learning and acceptance. They seamlessly embed character education and social emotional learning (SEL) into your Common Core ELA with cross-curricular references to math, science, and social studies from UPK through 8th grade for a school climate that honors diversity, nurtures character, and deters bullying.

In today's world, it is even more important to build bridges while celebrating our diversity on the path to a connected educational community that embraces and values all members. The Wisdom Thinkers Network and

their approach engages students and highlights key social issues while helping students find their voice. Excellent results have been seen with special needs and hard to teach students, and the conflict resolution component has helped to reduce the number of disciplinary incidents.

Internet access to all materials and examples provides for local capacity and promotes the development of new culturally-relevant content, specifically for those participating schools. It is amazing to see how well all this works within the schools. His methodology has won national awards, and the mission to connect the world, especially the children, through the "wisdom stories" and our shared values will bring exciting, positive results to your staff, students, and school community. ■

*The statements and opinions expressed herein do not necessarily imply or reflect the opinion or philosophy of the School Administrators Association of New York State.*

## News & Notes

School Administrators Association of New York State

Vol. XLVII No. 4

SAANYS News & Notes (USPS 025-346) is published monthly with the exception of June, July, and August, by the School Administrators Association of New York State, 8 Airport Park Blvd., Latham, NY 12110.

Phone: 518-782-0600  
Fax: 518-782-9552

SAANYS is chartered as a professional association by the New York State Education Department and is affiliated with NASSP and NAESP.

A copy of each issue of News & Notes shall be sent to each SAANYS member. \$7.15 of each member's annual dues shall be for a year's subscription to this publication.

Periodicals Postage Paid Latham, NY and additional post offices.

POSTMASTER: Send address changes to News & Notes, SAANYS, 8 Airport Park Blvd., Latham, NY 12110

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