



July 11, 2018

TO: MTA Local Presidents
MTA Board of Directors
MTA Staff

FROM: Barbara Madeloni, President

SUBJECT: Potential Legislation post-Janus

As I noted in my president's report to the Board at the June meeting, the AFL-CIO public sector task force has been working to craft legislation that might mitigate the impact of some of the assaults coming at us post-Janus. We have reached agreement on three pieces of legislation. These would: ensure access to new hires, restrict third party access to member personal information, and require full payment of dues for the year of membership even if the member were to drop membership mid-year. After considerable discussion and negotiation, we had reached agreement- and compromised significantly-on legislation that would allow for a fee to be charged to those who do not pay dues for representation in grievances and arbitrations.

Unfortunately, some unions want to include language that would undermine the duty of fair representation and, in so doing, be both unconstitutional and open the door to ending exclusive representation. Speaker De Leo has said that he wants full labor agreement on all legislation in order to pass any bills. But we, along with the great majority of unions on the task force, will not endorse legislation that would be both unconstitutional and undermine exclusive representation. Therefore, it is possible that none of the legislation will pass.

I have attached General Counsel Ira Fader's fuller explanation of the legislation and the concerns we have regarding duty of fair representation and exclusive representation. Please review it carefully. We will be working in the statehouse to help the legislators understand why they should support those pieces we have agreed to and oppose any legislation that enters the dangerous zone of undermining duty of fair representation.

But there is a broader issue at work here that we as a union need to discuss relative not only to preserving DFR, but also to how we will sustain, build and strengthen our union post-Janus. While the initial impulse to refuse representation to those who do not pay dues is understandable, it is also exactly what the union busters want. It will sow hostility and conflict at the worksite and encourage third party 'associations' that have no interest in collective bargaining, to come in and pull members away from the union. Even charging fees to those who are not yet paying (as I like to think about them) potentially erodes the possibilities for acting in solidarity- for using organizing efforts as a way to bring in those who are not currently paying dues. Indeed, the NEA, AFT, AFSCME and SEIU have released a statement strongly opposing any measures which weaken or end DFR or risk exclusive representation. The questions before us- and those I anticipate will center the work ahead- is what kind of union do we want to be—and what do we need to do to build power.

No matter what legislation is passed – or not passed- I trust that you will, with the support of Merrie Najimy and Max Page, engage in lengthy conversation about the implications of our choices for the long term strength of the MTA.