



**New York State Guide**

# **Is opting out right for me?**

## FREQUENTLY ASKED QUESTIONS

### What is “opting out” anyway?

Opting out is a new option for public employees to stop paying union dues.

### Is this a new option?

The United States Supreme Court ruled in 2018, in *Janus v. AFSCME*, that if you work in the public sector, you can't be forced to pay a union to keep your job. The ruling means New York's 1977 forced-payment law, which affects more than one million New Yorkers, is unconstitutional. You may have previously been told you had no choice but to pay a union, but now you do. These are your rights.

### How will opting out affect me?

You will still have the same pay and benefits, but the union may no longer provide certain services. These include grievance or disciplinary representation, voting on the union contract, voting for union officers, or running for union office yourself. They also may not receive certain union perks, such as travel discounts. Consult the union for the full list of rules.

#### *Did you know...*

*Alternative organizations--like American Association of Educators for teachers--offer legal defense, classroom grants, discounts, and other perks for a fraction of the cost of union dues.*

## **Can I rejoin if I change my mind?**

Definitely. It's up to you. What's important is that you now have the right to choose.

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## **Will this change my pay or health insurance?**

No. Pay and benefits are decided by which bargaining unit you're in, not whether you pay a union. And if you're a civil service employee, your pay is often fixed by law.

## **Can I be fired if I leave my union?**

Union membership doesn't affect your relationship with your employer, nor can employers issue layoffs specifically to people who have left the union. Job guarantees like tenure and civil service protections come from state law and aren't tied to union membership.

## **Are many people opting out?**

Yes. Tens of thousands of New Yorkers working for the state government, local governments, and school districts, have chosen not to belong to a union for a range of reasons. Some object to how their dues are spent, and others just want to save money. When teachers in Michigan got the right to choose in 2012, about one in five left the union they had joined previously.

## **Will opting out affect my pension?**

Absolutely not. Your pension is guaranteed under the New York State Constitution, not a union contract. Article V, Section 7 says “membership in any pension or retirement system of the state or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired.” Your pension system membership has nothing to do with union membership.

## **Is union membership optional?**

Union membership has always been optional for public employees. For many years, people were forced to pay the workplace union whether or not they joined, but those forced payments (sometimes called “fair share fees”) were banned by the U.S. Supreme Court in June 2018. The court ruled that forcing you to pay a union violates your First Amendment rights because it’s forcing you to support a political cause you don’t necessarily agree with.

## **How long does opting out take?**

Your employer should stop your dues immediately upon request. Depending on when in the pay period you make the request, it should not take more than two pay periods for the deduction to stop. If your deduction does not stop, your employer or the union may be stalling the process or simply unaware of their

obligation to cease the deduction. Please contact us immediately and we can assist with follow-up.

## What's the process to opt out?

Opting out used to be difficult. Thanks to services like New Choice NY, it's now a lot easier. Just fill out the simple, confidential form at [optout.newchoiceny.com](http://optout.newchoiceny.com). We then fax, email, and mail a formal request, like the one below, to your union and other parties involved in deducting dues.

### **EXAMPLE LETTER**

July 1, 2019

To whom it may concern:

I write to notify you that I do not want to be a member of the union that represents my position. If your records indicate that I am a union member, I hereby resign my membership in the union and all of its affiliates effective immediately.

The United States Supreme Court has ruled that I cannot be compelled to pay any union dues or fees as a condition of my employment. I no longer want to pay any dues or fees to the union. As of this date, I revoke any dues deduction authorization that I may have signed, and no longer authorize the deduction of any union dues or fees from my paycheck.

If you, the employer, do not have a signed dues deduction authorization from me, dues deductions are not authorized under state law and by my exercising my First Amendment rights.

If you refuse to accept this letter as a resignation of union membership or revocation of dues deduction authorization, please inform me promptly, in writing, of your reasons for so doing. Please also include anything that I may have signed that supports your decision not to honor my request.

Sincerely,

/S/ John Smith

123 Main Street

New York, NY 10001

# About New Choice NY

New Choice NY is an independent, nonprofit, nonpartisan effort to educate public employees in New York about their rights, empowering them to seek fair treatment from their unions and giving them a voice in the workplace. Contact us at [info@newchoiceny.com](mailto:info@newchoiceny.com).



[optout.newchoiceny.com](http://optout.newchoiceny.com)