



Quarterly Washington Update With CUPA-HR's Government Relations Team

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July 18, 2018

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Webinar

Our Government Relations Team



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New Quarterly Washington Update Webinar Series for 2018

**Grab lunch and your colleagues and get a quick 30-minute update with our CUPA-HR Government Relations Team!*

- Final 2018 Quarterly Washington Update webinar is October 17 at 12 pm eastern



Today's Agenda



- Spring Regulatory Agenda
- National Labor Relations Board (NLRB) Update
- Democrats Labor Reform Legislation
- *Janus v. AFSCME*
- Q & A



Spring 2018 Regulatory Agenda

- **Department of Labor**

- WHD – Overtime Rule – Updated Release Date – **January 2019.**
- WHD – Regular Rate Under the FLSA – **September 2018.**

- **National Labor Relations Board**

- Election Rule RFI Responses Review – **June 2018**
- Joint-Employer Rulemaking

- **Department of Homeland Security**

- USCIS – Rescission of H-4 Rule – **June 2018**
- ICE – Practical Training Reform – **October 2018**



NLRB Developments

- **NLRB Proposed Rulemaking on Joint Employer Status:**
 - *BFI*
 - *Hybrand*
 - Spring Regulatory Agenda
 - Chairman Ring's Letter
- **NLRB GC Guidance on Handbook rules**
 - NLRBs *Boeing* Decision
 - Past Handbook Cases
 - The Memo

Democrats Labor Reform Legislation

- **Workplace Democracy Act (HR 5728, S. 2810):**
 - Eliminate secret ballots in union elections;
 - Codify the NLRB's *BFI* joint employment standard
 - Import into NLRA CA Supreme Courts "ABC" test to determine Employee Status;
 - Eliminate Right to Work
 - Bring back the "Persuader Rule"; and
 - Strip away "secondary boycott" protections in the law
- **Workers Freedom to Negotiate Act (HR 6080, S. 3064):**
 - Does not replace private voting with card check;
 - Adds prohibitions on the enforceability of class action waivers in arbitration;
 - Codifies provisions of the "ambush" election rule;
 - Brings back the "blacklisting" rule;
 - Brings back notice posting regulations

Janus v. AFSCME

- **How we got here**

- 1977: *Abood v. Detroit Board of Education*
- 1984: *Ellis v. Railway Clerks*
- 1986: *Chicago Teachers Union v. Hudson*
- 1988: *Communication Workers v. Beck*
- 1991: *Lehnert v. Ferris Faculty Association*
- 2012: *Knox v. SEIU*
- 2014: *Harris v. Quinn*
- 2016: *Friedrichs v. CTA*



Janus v. AFSCME



- **Justice Alito's Opinion**

- “violates the free speech rights of nonmembers by compelling them to subsidize private speech on matters of substantial public concern.”
- “*Abood* was poorly reasoned...has led to practical problems and abuse...[and] is inconsistent with other First Amendment cases and [does not] justify the perpetuation of the free speech violations that *Abood* has countenanced for the past 41 years.”
- “neither an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such a payment, unless the employee **affirmatively** consents to pay”



Thank You!

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