

# After the Teacher WALKOUTS

## WILL UNIONS SHIFT THEIR FOCUS TO THE STATEHOUSE?

Since the 1960s, teachers unions across the United States have used strikes or the threat of strikes to influence the terms of collective bargaining agreements with local school districts. In the spring of 2018, teachers in West Virginia, Oklahoma, Arizona, and elsewhere changed their tack, staging walkouts designed to secure salary hikes and increased school funding from state legislatures. Will teachers unions increasingly shift their focus away from local districts and toward state policymakers? And how will unions adapt, now that the U.S. Supreme Court's *Janus v. AFSCME* decision has banned agency fees for teachers who decline to join? Jeffrey R. Henig and Melissa Arnold Lyon of Columbia University's Teachers College discuss possible union comeback strategies post-*Janus*, while Sarah F. Anzia of the University of California, Berkeley, foresees geographical differences in union tactics.

### ADAPTATION COULD BRING NEW STRENGTH

by JEFFREY R. HENIG and  
MELISSA ARNOLD LYON



**ONCE CONSIDERED KING OF THE RING**, teachers unions have spent most of this century counterpunching and playing defense.

Political scientist Terry Moe has argued that teachers unions are by far “the most powerful groups in the politics of education.” But his assessment is based largely on unions’ advantages in local districts, where typically low voter turnout allows a mobilized and focused group like the *(continued on page 54)*

### STATEWIDE STRIKES ARE A SHOT ACROSS THE BOW

by SARAH F. ANZIA



**TEACHER STRIKES AND WALKOUTS** in West Virginia, Oklahoma, Arizona, and elsewhere grabbed public attention last spring, but these wildfires of statewide activism are unlikely to spread far. In most states, teachers have unique and powerful advantages in local politics—advantages they’re unlikely to give up anytime soon—and they’re already active in state politics as well. It’s only in states that share certain key characteristics with West Virginia where the recent *(continued on page 55)*



PHOTOGRAPH / CRAIG HUDSON, CHARLESTON GAZETTE-MAIL, ASSOCIATED PRESS

*Teachers protest outside the state capitol in Charleston, West Virginia, on the fourth day of statewide walkouts in February 2018.*

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teachers union to elect sympathetic school boards. Beginning in the 1980s, the growing roles of state and federal governments in public education took many decisions out

of the unions' favored venue. To be sure, teachers unions also have muscular presence in some states, but in others, especially in the South and Southwest, the unions have held little power in recent decades, and the growing dominance of conservative Republicans in state legislatures and statehouses was creating a hostile environment even before the U.S. Supreme Court landed its *Janus* jab to the jaw.

It's ironic, then, that some of the most dramatic recent signs of teacher voice and vitality have occurred at the state level—and in places where one might expect the law, politics, and culture to be inhospitable. The *Janus v. AFCSME* decision takes to the national level a legal assault on unions manifest most recently in the states, through the passage of right-to-work (RTW) laws. These laws prohibit unions from collecting “agency fees” or “fair share fees” from non-members to help support the collective bargaining done on their behalf. Although most states that passed RTW laws did so in the

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1940s and '50s, a new wave of such legislation arose in the 2000s, beginning in Oklahoma in 2001 (see Figure 1). Indeed, seven states adopted new RTW laws after 2000, including West Virginia, Oklahoma, and Kentucky, all three of which experienced large-scale teacher walkouts in the spring of 2018. In *Janus*, the Supreme Court declared agency fees unconstitutional for public-employee unions.

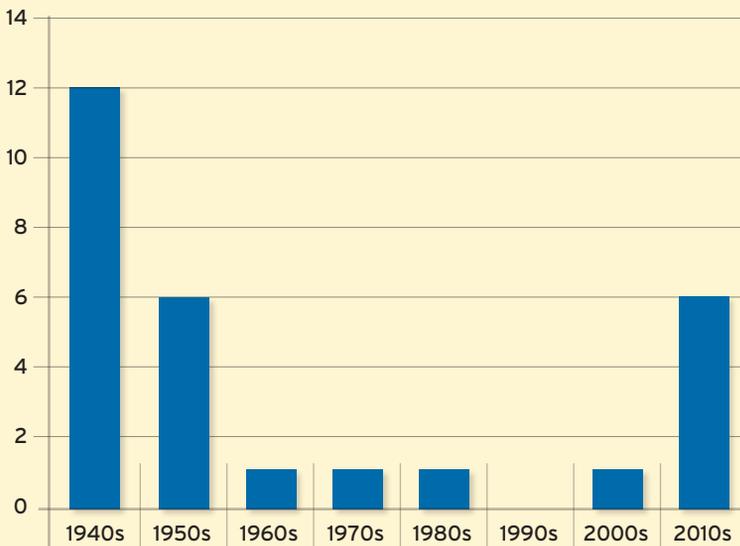
It's possible that the recent flurry of state-focused teacher protests will prove to be a short-lived spasm of resistance that doesn't stem the steady and continuing decline of unions. But a number of factors hint at a different narrative, in which the unions adjust their strategies in ways that not only mini-

imize damage but provide them with new energy, sense of purpose, and a stronger set of alliances. In this article we speculate about what the recent teacher actions might augur in terms of teachers-union strategies in the post-*Janus* era.

**Right-to-Work Laws Return to the Policy Agenda** (Figure 1)

Seven states passed right-to-work laws after 2000, including three states that experienced teacher walkouts in spring 2018: West Virginia, Oklahoma, and Kentucky.

Number of right-to-work laws passed per decade



SOURCE: National Right to Work Legal Defense Foundation (2018)

**States as the Venue of Choice?**

Do the recent strikes signal a broader shift to state-level activism? They might, but a careful look at the policy environments where the actions occurred suggests that these states are atypical, given their labor policy and state centralization. Table 1 describes the political and legal contexts for the six recent statewide teacher walkouts, and Table 2 compares these states to the rest of the country. The information presented shows that states experiencing walkouts have legal frameworks that are less friendly toward teachers unions. Only one of the six states with high-profile statewide strikes require collective bargaining, whereas more than two thirds of other states do. None of the states with strikes affirmatively permitted the collection of agency fees prior to *Janus*, whereas more than half of other states did. These six states have also traditionally had greater centralization (*continued on page 56*)

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teacher walkouts might inspire more political action at the state level.

To understand what any interest group does, it's important to "follow the interests." What kinds of policies

do its members care about? Which government or governments make the key decisions on those policies? In the case of teachers unions, the chief answer to the first question is: salaries, benefits, and working conditions such as class size and procedures for evaluating teachers. This isn't to say that teachers don't care about children and the quality of education; it's simply that what unites teachers unions as organizations are teachers' occupational interests. And the answer to the second question helps explain why teachers in Kentucky, North Carolina, Oklahoma, and West Virginia targeted their state legislatures: all four have statewide teacher-salary schedules. Such a policy doesn't necessarily mean that all teachers in a state are paid according to the exact same schedule—local districts can supplement the statewide amounts—but it does mean that the state government plays a major role in determining teacher salaries. It makes sense, then, that teachers in these places would direct their protests toward the state government.

But most states don't have state-mandated teacher-salary schedules. Instead, it's the local school boards that make the major decisions about salaries and other matters of interest to teachers, such as how much an individual employee pays toward health insurance premiums. And as long as local school districts are the key decisionmakers on the issues that most directly affect them, we can bet that teachers' organizations will focus their efforts there. Nothing about recent events changed that.

### Spheres of Influence

Just as important as *where* these issues are decided is how they are decided. And in most places, many decisions about teacher compensation and school operations are hammered out through collective bargaining, a process in which teachers union representatives are direct and equal participants alongside school-board representatives. This bargaining power affords a built-in avenue of influence that most teachers have at the local level but not at the state level—which leads to another reason that teachers in Arizona, Colorado, Kentucky, North Carolina, and West Virginia targeted the state government: they are 5 of the 17 states that don't *require* collective bargaining for teachers. In North Carolina, collective bargaining in public education is illegal.

Political realities also come into play here. As a general rule, the local political environment is more conducive to teacher influence than the statehouse is. State politics is crowded, with hundreds of interest groups vying for policymakers' attention, and hundreds of actors holding a stake in taxing, spending, and regulation. Teachers have to contend

with all of these potentially competing influences.

Local school-district politics tends to be quieter and much less crowded. School-board elections are notorious for their low voter turnout and scant media attention. And because school boards only make policy on a single issue—education—the only interest groups involved in the elections are those with a big stake in education policy. This can include a variety of groups, including businesses and parent-teacher associations. But the reality in many districts is that none of these other parties have as large and as direct a stake in local education policy as teachers unions. As Terry Moe of Stanford University has shown in his research, teachers unions are the most active interest groups in school-board elections in California, and they are strikingly successful in getting their preferred candidates elected (see "The Union Label on the Ballot Box," *features*, Summer 2006).

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The payoffs of all this influence are huge, because it means that teachers unions are helping to elect the very people they bargain with. Teachers unions in states like California and New York aren't going to give up this structural advantage just because of what happened in West Virginia.

This is not to say, however, that teachers in states like California and New York don't also have interests in state policy. Of course they do: big ones. Teacher-tenure policies and charter-school caps are largely decided at the state level, as are most teachers' pensions. And even though decisions about teacher salaries and health benefits are mainly made at the local level, the states contribute roughly half of the funding that pays for this compensation. The particulars vary, but state governments play a major role in deciding how much money local districts have to work with.

By "following the interests," then, we should expect public-school teachers to be very active in state politics. And in most places, they are—and it's nothing new. Teachers unions spend astronomical sums of money in state elections. Political scientists Clive Thomas and Ronald Hrebenar regularly interview experts to develop a ranking of the top-40 most influential interests in the 50 states, and they consistently find that state affiliates of the National Education Association vie for the first spot. Teachers unions don't typically stage statewide walkouts, but that's because they don't have to. Strikes are costly, disruptive, and often illegal, and it's (*continued on page 57*)

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of decisionmaking at the state level, which makes state-targeted activism a more rational choice. For example, two thirds of the states with walkouts had statewide teacher-salary schedules establishing minimum salaries for teachers based on certain qualifications, whereas only one fourth of the states not experiencing walkouts set salary schedules. This centralization may even help to explain why some of these walkouts had the support of local school-district management.

Americans love an underdog, and one reason these recent actions struck a popular chord is precisely that they emerged against all odds. News coverage was highly sympathetic, emphasizing that teachers in these states were working multiple jobs, receiving some of the lowest pay in the nation, bearing the brunt of budget reductions, and suffering financially as a result

of cuts from five- to four-day school weeks. Often, the coverage depicted selfless teachers standing up for the sake of the kids. “I came to the Capitol not just for myself, not just for a raise, but for my students,” one teacher was quoted as saying. Another was described as using stickers to adorn her strike poster with the names of all her students: “I feel like I have to have a voice for these guys.” Notably, public-opinion surveys have shown robust public support for the teachers’ actions. The 2018 *Education Next* poll revealed a large jump in support for increasing teacher pay, particularly in states that experienced walkouts, and a strong majority favoring teachers’ right to strike (see “Public Support Climbs for Teacher Pay, School Expenditures, Charter Schools, and Universal Vouchers,” *features*, Winter 2019).

What are the implications of the walkouts for other states? In examining this question, there are at least two other factors worth considering. Both come into (*continued on page 58*)

**POLICY ON TEACHERS UNIONS IN WALKOUT STATES (Table 1)**

THE SIX STATES that experienced major teacher walkouts in spring 2018 have legal frameworks that are generally unfriendly toward teachers unions, with four of the states having prohibited the collection of agency fees prior to the *Janus* decision and only Oklahoma requiring collective bargaining.

STATE	LEGALITY OF COLLECTIVE BARGAINING	STATE AGENCY FEE LAWS*	LEGAL TO STRIKE	STATEWIDE SALARY SCHEDULE	ANNUAL SALARY FOR A FIRST-YEAR TEACHER WITH A BACHELOR'S DEGREE
Arizona	Illegal	Prohibited (2006)	No	No	Decided at local level
Colorado	Permissible	State law neither permits nor prohibits	Yes	No	Decided at local level
Kentucky	Permissible	Prohibited (2017)	No	Yes	\$29,803
North Carolina	Illegal	State law neither permits nor prohibits	No	Yes	\$35,000
Oklahoma	Required	Prohibited (2001)	No	Yes	\$31,600
West Virginia	Permissible	Prohibited (2016)	No	Yes	\$29,315

\*This provides the state legal framework for the collection of agency fees prior to the June 2018 *Janus v. AFCSME* decision declaring agency fees unconstitutional nationwide. Although Arizona became a right-to-work state in 1947, agency fees were not explicitly prohibited until a 2006 court decision.

SOURCE: National Council on Teacher Quality (2018)

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never guaranteed that the public will side with the teachers once the schools are closed and the dispute is headline news. Why create all the commotion and uncertainty if you can influence policy without it? Often, the most powerful kind of political influence is exerted very quietly.

In most places in the United States, then, there isn't much need for teachers to focus more on state politics. They already have a big presence there, and they have every reason to continue their efforts at the local level as well.

**Power of Collective Action**

So what happened in Arizona, Colorado, Kentucky, North Carolina, Oklahoma, and West Virginia in the spring of 2018? Why the strikes?

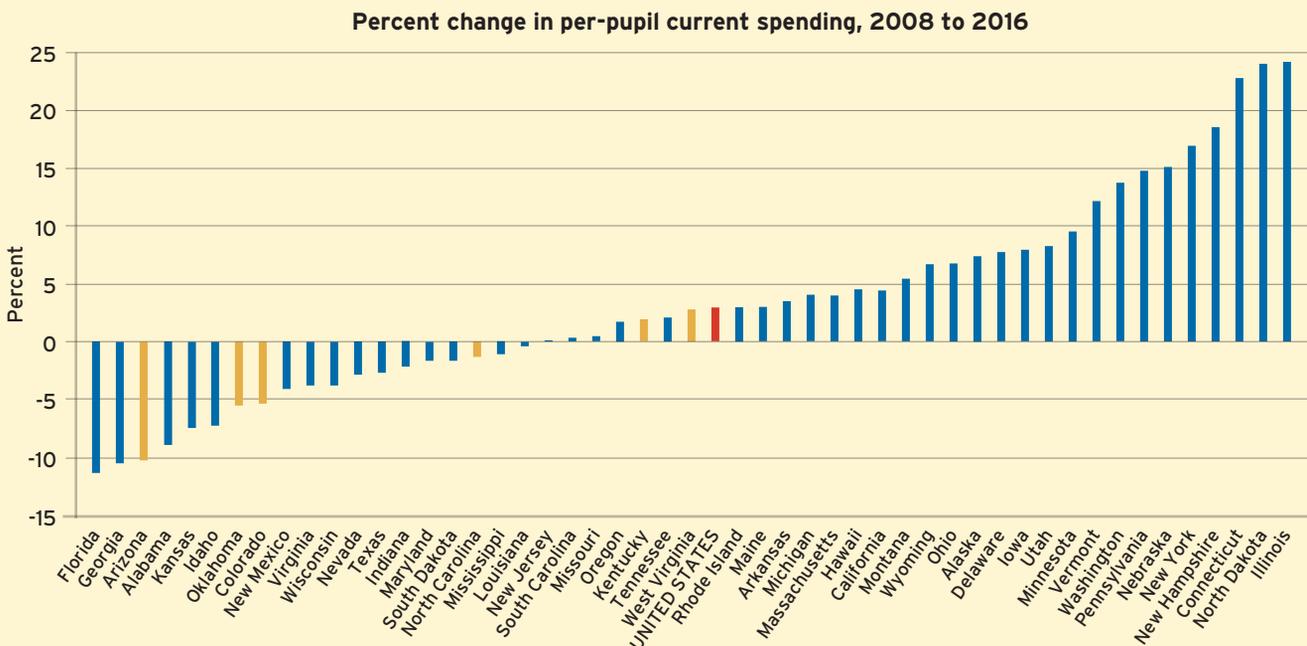
Like any group of individuals with shared interests,

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teachers face a quandary when considering collective action. They stand to be better-off if they unite as a group to push for policies in their favor, but for the individual teacher, participating in those efforts is costly. It takes time and energy to lobby, protest, and strike. Forming an organization that will work on teachers' behalf takes money—and that means charging dues. If someone can reap the benefits of the group's political action without contributing (*continued on page 59*)

**Per-Pupil Spending Slow to Recover in Walkout States (Figure 1)**

*As of 2016, 19 states were spending less per pupil than they had in 2008, just prior to the financial crisis. That includes four of the states that experienced teacher walkouts this spring: Arizona, Oklahoma, Colorado, and North Carolina.*



NOTE: States that experienced teacher strikes or walkouts in spring 2018 are shown in orange. U.S. average is shown in red. Spending data are adjusted for inflation using the Consumer Price Index.

SOURCE: U.S. Census Bureau, "Annual Survey of School System Finances"

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better focus when we compare the recent state actions with the Chicago teachers' strike of 2012.

First, national unions may have played supporting roles in the recent actions, but what was prominent was the voice of teachers, *not* the voice of union leaders. Media and pundit accounts of the seven-day Chicago strike gave prominence to the Chicago Teachers Union (CTU). With the union in the foreground, it was easy to paint the action as the work of an interest group defending members' pocketbooks at the expense of students and their families. Whether unions are able and willing to adopt a more behind-the-scenes role in states where they have

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a structured presence is one question still to be answered.

Second, there is a racial dimension that may be important.

Although the nation's K-12 teacher workforce is still predominantly white (82 percent in 2012), the proportion who are teachers of color has increased, from 13 percent in 1988 to 18 percent in 2012. This trend is especially strong in inner cities: in 2014, 25 percent of inner-city teachers and 28 percent of new teachers were black or Hispanic, compared to 17 percent and 21 percent nationwide. Karen Lewis, the high-profile president of the CTU until she stepped down recently for health reasons, is black, and only half of Chicago Public Schools teachers and just over one third of the staff identify as white. In the large central-city school systems where teachers unions are most active and visible, the composition of the teaching force can lead suburban and rural voters, and their elected representatives, to implicitly associate union politics with minority politics, and a variety of studies have shown that policies associated with minorities tend to be less generous and more vulnerable to political headwinds. Although it may be uncomfortable to discuss, the faces shown in the news during the walkouts were predominantly those of white teachers, and that portrayal may have made the protesters more sympathetic to audiences outside large cities, where residents do not tend to view systemic racism as an issue. Roughly half of suburban whites and 6 out of 10 rural whites reject the notion that whites have advantages that black Americans do not.

To the extent that race comes into play, teachers unions in large cities may face a tougher challenge winning over broad public support at the state level, where opponents can more easily mobilize racial resentments against urban teachers unions.

**Winning Allies versus Rallying the Base**

Just as political parties struggle to find a balance between wooing (*continued on page 60*)

**COMPARING STATES WITH AND WITHOUT TEACHER STRIKES (Table 2)**

WHILE THE SIX WALKOUT STATES generally have less favorable laws on teachers unions, their more centralized teacher salary systems increase the potential gains from putting pressure on state governments.

	STATES WITH WALKOUTS (n=6)	OTHER STATES (n=45)*
<b>LEGALITY OF COLLECTIVE BARGAINING</b>		
Require	17%	69%
Permit	50%	11%
Prohibit	33%	20%
<b>STATE AGENCY FEES LAWS</b>		
Permit	0%	51%
Neither permit nor prohibit	33%	0%
Prohibit	67%	49%
<b>ILLEGAL TO STRIKE?</b>	<b>83%</b>	<b>70%</b>
<b>STATEWIDE TEACHER SALARY SCHEDULE</b>		
Salary schedule	67%	24%
Minimum salary	0%	22%
No salary schedule or minimum salary	33%	53%
<b>IN STATES WITH SALARY SCHEDULES, AVERAGE 2016-17 SALARY FOR A FIRST-YEAR TEACHER WITH A BACHELOR'S DEGREE</b>	<b>\$31,430</b>	<b>\$35,560</b>

\*Includes Washington, D.C.

SOURCE: National Council on Teacher Quality (2018)

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to the effort, why bother contributing? Yet if every teacher were to think that way, no one would contribute, there would be no collective political action, and teachers

as a group would be worse-off.

For most teachers and other government employees, the main solution to this classic problem arrived in the 1960s, 1970s, and 1980s—in the form of state laws that required collective bargaining (and sometimes also allowed agency fees). These “duty-to-bargain” laws gave government employees a critical incentive to organize into unions, because suddenly the payoffs for doing so were enormous, and because teachers who opted out of the union would often have to pay agency fees anyway. In the states where the laws were passed, the public sector unionized rapidly, and gave rise to strong teachers’ organizations, with both members and money providing clout.

But in states like Arizona and Kentucky, this never happened. Duty-to-bargain laws were not enacted. Local teachers unions can and do form in such places, and they do get involved in politics, but usually they command far fewer resources—in the form of money, membership numbers, and political muscle—than their counterparts in states where collective bargaining is mandatory. In recent years, Minnesota, New York, and Rhode Island have boasted teachers union membership rates of nearly 100 percent, but in Arizona, Kentucky, and North Carolina, only about 50 to 60 percent of teachers are union members.

So today, successful teacher organization at the state level is entirely unremarkable in most of the country. But what’s happened recently in the six strike-affected states actually is somewhat remarkable. Why were teachers there suddenly able to take collective action?

Part of the explanation surely has to do with the rise of social media and changes in the technology that supports organizing. In Oklahoma, for instance, grassroots organizations and unions relied on Facebook groups to get 30,000 teachers to rally at the state capitol—a feat that would have been much more difficult 20 years ago. But those are just the mechanics; the motive is far more important. The seeds of that motive were planted when the Great Recession of 2007–09 decimated state and local budgets, and education funding went down with them. To make matters worse, public pension costs have climbed dramatically (with advocacy on the part of public-sector unions playing a big role in those increases, as Terry Moe and I have shown) and are still rising, with no end in sight. Topping it all off, a number of Republican-led states, including Arizona, North Carolina, and Oklahoma, have enacted tax cuts.

All of these trends hurt public-education funding. And as

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researchers at the Center on Budget and Policy Priorities have shown, funding in a number of states hasn’t yet recovered from the recession. As of 2016, 19 states were still providing less per-pupil funding (inflation-adjusted) than they had in 2008. It’s probably not a coincidence that four of the six states that had teacher walkouts this spring—Arizona, Oklahoma, Colorado, and North Carolina—were among those 19 (see Figure 1). And per-pupil spending in those states is also well below the national average. What has happened, then, is that those drops in education funding have proven significant enough to spur teachers into action in states where they have historically been only weakly organized.

It remains to be seen whether the recent strikes will result in sustained teacher organization in states like West Virginia. At a minimum, however, the statewide teacher strikes are a shot across the bow. Teachers do face a collective-action problem, and when they aren’t well organized, perhaps it’s easy for policymakers to dismiss them. But politically speaking, that’s a mistake, because their *potential* for strength is enormous. More than seven million people work for elementary and secondary public schools in the United States. School employees have a presence in every state legislator’s district, Republican or Democrat. They care intensely about school funding. Even if they’re not currently well organized, or haven’t been in the past, they will notice when their pension or health contributions go up dramatically, or when they haven’t gotten a raise in several years. It just may be enough to spur them into political action. And if that should happen, then thanks to their numbers and their ubiquitous presence, they stand to be a political force to be reckoned with.

So, not much will change in the states where teachers unions are already strong and highly active in both state and local politics. But in states with historically weaker unions, policymakers should pay attention—and the message to them is clear: you can only roll back education spending so much before you provoke a rebellion by the millions of people whose livelihoods depend on it. ■

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undecideds and appealing to their base, so too must teachers unions consider how much to focus on winning allies versus providing what their members expect and demand from them. The *Janus* decision complicates this challenge in at least two ways.

One has to do with relations with fellow interest groups such as other unions, civil- and immigrant-rights organizations, and the array of nonprofit and advocacy organizations that focus on the needs of children and families. Although these organizations share many values, they can differ on how they prioritize issues and where they choose to invest their money and political muscle. If *Janus*, as predicted, leaves teachers unions with lighter coffers, they may need external allies more than ever, but cementing those alliances may sometimes mean de-emphasizing the school- and teacher-specific issues that their members value highly.

The second complication has to do with likely changes in the composition of union ranks as teachers begin to drop their membership now that they are no longer required to pay agency fees if they leave. It is a safe assumption that today's non-members will continue to opt out, but no one knows how many current members will quit. One can venture to say, however, that those who remain in the union will, on balance, be different from those who leave, in terms of how they view union activity. The teachers who are motivated primarily by their own personal well-being—salary hikes and attractive working conditions—might be expected to leave. The remaining core of members, though diminished, will therefore likely comprise those with deeper allegiance to the collective goals that unions have stood for.

But unions have stood for two different kinds of collective goals: *education-specific* ones that relate to improving the education system and the status of teachers generally, and those relating to *general social betterment through strong government action*. If their loyalty and fervor center on education-specific collective goals, core union members might consider their leaders' alliance-building efforts to be a distraction from their primary concerns. On the other hand, if the loyalty and fervor of the remaining members are stoked more by goals relating to societal betterment through a muscular public sector, then tensions between union leaders and the rank and file could diminish with the exit of members who were ambivalent or reluctant enlistees to that cause.

The recent teacher actions may shed light here. Although they took place before the *Janus* decision, they happened in states where the legal status of unions and union membership resembles that which *Janus* promises to expand nationwide. Teachers in those states were not forced members of unions, but in spite of that—or perhaps because of it—they chose to link hands in a collective enterprise focused more obviously on

system improvement than on personal benefit, and this helped account for the greater willingness of non-parents, politicians, and the media to treat them more as heroes than pocket-lining villains. That's a reminder that a smaller but more collectively motivated core of members may facilitate strong actions, and that's good news for the teachers unions.

On the other hand, the recent teacher walkouts were largely detached from broader social issues like poverty,

The remaining core of members post-*Janus*, though diminished, will likely comprise those with deeper allegiance to the collective goals that unions have stood for.

social programs, health care, and inequality, and were primarily focused on the distribution of material resources—both to teachers and to schools in general. In culturally conservative states, keeping a focus on education, as these teachers did, could help teachers avoid ideological and partisan tripwires that could mobilize a backlash against their activism. However, that option may not be available in more liberal states and on the national political battlefield, where the need to work with allies and to fully motivate their more socially conscious members will inevitably draw teacher activists into more controversial positions.

Similarly, where education funding has been obviously and embarrassingly paltry compared to that of other states, teachers and their unions may find it easier to gain public support for increasing school spending, whereas teachers unions in high-spending states like New York may experience more pushback from third parties that hope to keep taxes low or consider current education spending levels to be adequate.

The bottom line is that teachers unions will have tactical options, even in unsupportive legal environments. And to the extent the action is being driven to the state level, the weighing of options and their likely success will vary from place to place and perhaps over time. But hyper-focus on how individual teachers will weigh the impacts on their pocketbooks can overlook the lessons from recent state walkouts: teachers, their allies, and the general public take positions also based on purposive goals and perceptions of what is fair and just. Money is an issue, but so are motivating hearts and shaping perceptions. By convincingly embracing a broader agenda, teachers unions may convert recent political and judicial setbacks into a more energized core and more extensive constituency, even if their formal membership shrinks. ■