

Michigan's Freedom to Work Frequently Asked Questions*

What does the Freedom to Work law mean to Michigan workers?

Michigan's Freedom to Work law ("FTW") makes it unlawful to require that an employee pay dues or service fees (commonly referred to as 'agency fees') to a union as a condition of obtaining or continuing employment. Essentially, FTW prohibits union security clauses.

What is a union security clause?

A union security clause is a provision in a collective bargaining agreement requiring that all members of the bargaining unit either join or financially support the union.

What does exclusive representative mean?

Once a union is recognized as the exclusive bargaining agent of an employee group, that union has the exclusive right and responsibility to represent all employees in the bargaining unit.

What is the difference between a bargaining unit member and a union member?

A bargaining unit is the grouping or classification of employees that the union represents as the exclusive bargaining representative. The collective bargaining agreement defines which positions or classifications are part of the bargaining unit.

Union members are members of the bargaining unit who choose to join and/or support the union that is the exclusive bargaining representative.

Under FTW, bargaining unit members cannot be required to become union members or to financially support the union as a condition of obtaining or continuing employment.

In *Janus-and-AFSCME Council 31, et al.*, 585 U.S. ___ (2018), the U.S. Supreme Court held that States and public sector unions may no longer extract agency fees from nonconsenting employees because this is a violation of the employees' First Amendment rights.

FTW does not allow employees to opt out of the bargaining unit.

When did FTW take effect?

Public Act Nos. 348 and 349 of 2012 took effect on March 28, 2013.

Does FTW prohibit unions? What about collective bargaining?

No, FTW does not prohibit unions or collective bargaining.

Can my employer discriminate against me for choosing to be a member of the union?

No, it is unlawful for an employer to discriminate against an employee with regard to terms and conditions of employment in order to encourage or discourage membership in a union.

When may I resign my union membership and/or stop paying dues or service fees?

An individual's right to resign union membership and an individual's obligation to continue to pay dues or service fees are different.

Although an individual may resign union membership at will, agreements, such as a membership agreement or a "dues check-off" authorization between an individual and the union, could affect when the employee may stop paying dues. Note, however, that this answer may be impacted by the Janus case. In *Janus-and-AFSCME Council 31, et al.*, 585 U.S. ___ (2018), the U.S. Supreme Court held that States and public sector unions may no longer extract agency fees from nonconsenting employees because this is a violation of the employees' First Amendment rights.

If you are unsure of your rights/obligations, you are encouraged to utilize the resources listed below or to seek independent legal advice.

Which employees in Michigan are not covered under FTW?

FTW does not apply to individuals subject to the Railway Labor Act.

Employees, who are unsure whether FTW applies to them are encouraged to utilize the additional resources listed below or to seek independent legal advice.

Does FTW apply to state classified civil service employees?

In a lawsuit involving FTW and state classified civil servants, the Michigan Supreme Court did not address the issue but, instead, held that compelling these state employees to pay dues or agency fees is unconstitutional. Similarly, in *Janus-and-AFSCME Council 31, et al.*, 585 U.S. ___ (2018), the U.S. Supreme Court held that States and public sector unions may no longer extract agency fees from nonconsenting employees because this is a violation of the employees' First Amendment rights.

Employees should contact their Human Resources Department for further information.

Does FTW allow me to negotiate directly with my employer over terms and conditions of employment even if I am subject to a collective bargaining agreement?

No, the union or labor organization remains the exclusive bargaining representative for the collective bargaining unit.

Am I subject to the terms and conditions of a collective bargaining agreement even if I choose not to be a member of the union?

Yes, as a member of the bargaining unit, you are subject to the terms and conditions of a collective bargaining agreement regardless of whether or not you join the union.

Does FTW affect existing health and safety laws or regulations?

No, FTW does not impact existing workplace health and safety laws or regulations.

Does FTW affect existing wage and hour laws or regulations?

No, FTW does not impact existing laws or regulations concerning wages, hours, leave, etc.

Are there other “Freedom to Work” states?

As of July 2018, 28 states had adopted “freedom (right) to work” laws.

What resources are available to provide more information regarding FTW?

Additional information as well as the full text of the FTW laws is available on the Department of Licensing and Regulatory Affairs, Bureau of Employment Relations website at www.michigan.gov/merc.

Interested parties may also contact:

Department of Licensing and Regulatory Affairs
Bureau of Employment Relations
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477 Michigan Avenue, Room 300
Detroit, MI 48226-2569
Tel: 866-667-NLRB/313-226-3200
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www.nlr.gov

National Labor Relations Board
Grand Rapids Regional Office
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* The answers provided are not meant to be a substitute for legal advice.