

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
ROCK ISLAND DIVISION**

SUSAN BENNETT,

Plaintiff,

v.

AMERICAN FEDERATION OF STATE,  
COUNTY, AND MUNICIPAL  
EMPLOYEES, COUNCIL 31, AFL-CIO;  
AFSCME LOCAL 672; MOLINE-COLE  
VALLEY SCHOOL DISTRICT NO. 40;  
ATTORNEY GENERAL KWAME  
RAOUL, in his official capacity; and  
ANDREA R. WAINTROOB, chair, JUDY  
BIGGERT, GILBERT O'BRIEN JR.,  
LYNNE SERED, and LARA SHAYNE,  
members, of the Illinois Educational Labor  
Relations Board, in their official capacities,

Defendants.

Case No. 4:19-cv-04087-SLD-JEH

**JOINT STIPULATED RECORD**

The undersigned parties—Plaintiff Susan Bennett, Defendant AFSCME Council 31, Defendant AFSCME Local 672, and Defendant Board of Education of Moline-Coal Valley School District No. 40—hereby stipulate that the following facts are true for purposes of cross-motions for summary judgment only. In the event that the Court denies both parties' cross-motions for summary judgment, the parties reserve the right to request a brief period of discovery prior to trial.

1. Plaintiff Susan Bennett ("Plaintiff") has been employed by the Board of Education of Moline-Coal Valley School District No. 40 ("School District") as a custodian since August 2009.
2. Defendant AFSCME Council 31 ("Council 31") is a labor organization based in Chicago, Illinois that represents public sector workers employed by numerous state and local

government employers in Illinois. Council 31 is a labor organization under Section 2(c) of the Illinois Educational Labor Relations Act, 115 ILCS 5/2(c).

3. Defendant Local 672 (“Local 672”) is a labor organization based in Moline, Illinois that represents custodial and maintenance employees of the School District. Local 672 is affiliated with Council 31.
4. Local 672 is a labor organization under Section 2(c) of the Illinois Educational Labor Relations Act, 115 ILCS 5/2(c).
5. Defendant School District is an Illinois public school district with its principal office located in Moline, Illinois, and serves approximately 7,300 students across multiple buildings—one high school, one alternative high school, two middle schools, ten elementary schools and one early childhood center, as well as the District office and the Wharton Field House. The School District is an educational employer under Section 2(a) of the Illinois Educational Labor Relations Act, 115 ILCS 5/2(a).
6. Defendant Attorney General Kwame Raoul is sued in his official capacity as the representative of State of Illinois charged with the enforcement of state laws, including the Illinois Educational Labor Relations Act. 115 ILCS 5/3(b). His offices are located in Chicago and Springfield, Illinois.
7. As of the date of this stipulation, Defendants Andrea R. Waintroob (chair), Judy Biggert, Gilbert O’Brien Jr., Lynne Sered, and Lara Shayne, are members of the Illinois Educational Labor Relations Board (“IELRB”). They are sued in their official capacities.
8. The IELRB has certified Defendant Council 31 as the exclusive representative, pursuant to 115 ILCS 5/8, for the bargaining unit consisting of certain employees of the School District, including custodial and maintenance employees.

9. Since the beginning of Plaintiff's employment with the School District in August 2009, Plaintiff has been employed in a bargaining unit position represented by Council 31.
10. Plaintiff initially became a member of Council 31 and Local 672 (collectively, "the Union") in November 2009 by signing a membership and dues-deduction authorization card that stated in relevant part as follows: "I hereby authorize my employer to deduct the amount as certified by the Union as the current rate of dues. This deduction is to be turned over to AFSCME, AFL-CIO." A true and correct copy of Plaintiff's 2009 membership and dues-deduction authorization card is attached as Exhibit 1.
11. The Union presented Plaintiff with a blank copy of the membership and dues-deduction authorization card attached as Exhibit 1 and asked Plaintiff to sign it.
12. The membership and dues-deduction authorization card attached as Exhibit 1 was drafted by Council 31. The School District did not draft or approve the terms of this membership card, nor can it. The terms of union membership and dues deductions are solely within the purview of the Union and its members and potential members.
13. On August 21, 2017, Plaintiff signed a Council 31 membership and dues-deduction authorization card that stated in relevant part as follows:

I hereby affirm my membership in AFSCME Council 31, AFL-CIO and authorize AFSCME Council 31 to represent me as my exclusive representative on matters related to my employment.

I recognize that my authorization of dues deductions, and the continuation of such authorization from one year to the next, is voluntary and not a condition of my employment.

I hereby authorize my employer to deduct from my pay each pay period that amount that is equal to dues and to remit such amount monthly to AFSCME Council 31 ("Union"). This voluntary authorization and assignment shall be irrevocable for a period of one year from the date of authorization and shall automatically renew from year to year unless I revoke this authorization by sending written notice by the United States

Postal Service to my Employer and to the Union postmarked not more than 25 days and not less than 10 days before the expiration of the yearly period described above, or as otherwise provided by law.

A true and correct copy of Plaintiff's 2017 membership and dues-deduction authorization card is attached as Exhibit 2.

14. The Union presented Plaintiff with a blank copy of the membership and dues-deduction authorization card attached as Exhibit 2 and asked Plaintiff to sign it.
15. The membership and dues-deduction authorization card attached as Exhibit 2 was drafted by Council 31. The School District did not draft or approve the terms of this membership card.
16. Defendant Council 31, on behalf of Defendant Local 672, and the Board of Education entered into a collective bargaining agreement effective from July 1, 2014 through June 30, 2017 (the "2014-2017 CBA") or until the completion of a successor agreement. A true and correct copy of that collective bargaining agreement is attached as Exhibit 3.
17. Defendant Council 31, on behalf of Defendant Local 672, and the Board of Education entered into a collective bargaining agreement effective from July 1, 2017 through June 30, 2018 (the "2017-2018 CBA"), or until the completion of a successor agreement. A true and correct copy of that collective bargaining agreement is attached as Exhibit 4.
18. Defendant Council 31, on behalf of Defendant Local 672, and the Board of Education entered into a collective bargaining agreement effective from July 1, 2018 through June 30, 2020 (the "Current CBA"), or until the completion of a successor agreement. A true and correct copy of that collective bargaining agreement is attached as Exhibit 5.
19. At all times prior to June 27, 2018, School District employees in the bargaining unit represented by Council 31 had the choice of being union members or fair share fee

payers. Joining the Union was never a condition of employment. However, if an employee chose not to join the Union, prior to June 27, 2018, that employee would still have been required to pay fair share fees to the Union.

20. Plaintiff did not attempt to revoke either her 2009 or 2017 dues-deduction authorization card at any time prior to June 27, 2018.
21. Plaintiff did not sign any dues-deduction authorization agreement at any time after June 27, 2018.
22. Article XV, Section 1 of the Current CBA provides in relevant part that:

The Employer shall honor employees' individually authorized dues deduction forms, and shall make such deductions from the employee's earnings in the amounts certified by the Union for union dues, assessments, or fees; and PEOPLE contributions, and remit such deductions to the Union at the address designated in writing to the Employer by the Union. Authorized deductions shall be revocable in accordance with the terms under which an employee voluntarily authorized said deductions provided that an employee is annually given a reasonable period to revoke.

Exhibit 5, page 21.

23. After becoming a member of the Union, Plaintiff could resign her membership at any time.
24. According to the terms of the membership and dues-deduction authorization card that Plaintiff signed on August 21, 2017, Plaintiff authorized an amount that is equal to dues to be deducted from her paycheck—that authorization was irrevocable for a period of one year from the date of the authorization. After the end of the one-year irrevocability period, the authorization would automatically renew from year to year unless Plaintiff revoked the authorization by sending written notice by the United States Postal Service to the School District and to Council 31, postmarked not more than 25 days and not less than 10 days before the end of any yearly period as described in the dues-deduction

authorization, measured from the date on which Plaintiff signed the card—which was August 21.

25. Thus, although Plaintiff could resign her membership in the Union at any time, she was obligated under the terms of her agreement to continue paying dues to the Union until she revoked the authorization by sending written notice by the United States Postal Service to the School District and to Council 31, postmarked not more than 25 days and not less than 10 days before August 21.
26. At all times relevant to the Complaint, the School District deducted union dues from the wages of union members in the bargaining unit represented by Council 31 that included Plaintiff, and remitted those dues to Council 31.
27. Prior to June 27, 2018, the School District collected fair share fees from nonmembers of Council 31 and remitted those fees to Council 31 pursuant to Article XV, Section 2 of both the 2014-2017 CBA and the 2017-2018 CBA, 5 ILCS 315/6(e), and *Abood v. Detroit Bd. of Educ.*, 431 U.S. 209 (1977).
28. The School District and Council 31 stopped enforcing the fair-share-fee requirement of the 2017-2018 CBA and stopped deducting and collecting fair-share fees immediately after the Supreme Court issued its decision in *Janus v. AFSCME Council 31*, 138 S. Ct. 2448, on June 27, 2018. The Current CBA contains no fair-share-fee requirement.
29. On November 1, 2018, Plaintiff sent a letter to AFSCME International—an international union based in Washington, D.C. with which Council 31 is affiliated—seeking to resign her membership. Exhibit 6.
30. On November 5, 2018, Plaintiff sent a letter to David McDermott, Chief Financial Officer of the School District, informing her employer that she was resigning from her

membership in “AFSCME (Local 672)” and asking the School District not to enforce “[a]ny previous authorizations of membership and/or the deduction of dues or fees.”

Exhibit 7.

31. The School District, under the terms of the collective bargaining agreements with Union (including the 2014-2017 CBA, the 2017-2018 CBA, and the Current CBA), has no role, authority, or discretion in determining union membership, the amount of dues deductions, or the opt-out window. The Union informs the School District as to who is and who is not a member and the amount of any dues deduction to be withheld from employees’ paychecks.

32. On December 3, 2018, Mr. McDermott replied to Plaintiff’s November 5, 2018, email stating that he believed, pursuant to her dues-deduction authorization card, she had to wait until the next enrollment period to withdraw, which he understood at that time to be August 2019. Mr. McDermott recommended that Plaintiff contact her Union representative to ensure that she was following the proper legal procedures to withdraw. A true and correct copy of Mr. McDermott’s reply is attached as Exhibit 8.

33. On or around December 13, 2018, Rick Surber of Council 31 sent a letter to Plaintiff, acknowledging that Plaintiff had “contacted AFSCME Council 31 regarding the status of your union membership,” and advising Plaintiff in relevant part that:

As you were informed during the phone call, your union membership will stop as soon as AFSCME Council 31 receives written notice of your decision to resign. Although you may cancel your union membership at any time, your signed membership card committed you to paying an amount equal to dues to support the work of the union for one year. Our union asks members to make this commitment so that we can properly budget and provide all workers with the representation they need. As stated on the card you signed, your commitment to having dues equivalents deducted can only be revoked in writing during a specified ‘window period.’ Your window period is based on the date you signed your card, and is a period from 25 days before the anniversary date of your signature to 10 days before the anniversary date of your signature. Your signature date was

8/21/2017, therefore your next opportunity to submit a written request to revoke these deductions will be from 7/27/2019 to 8/11/2019.

A true and correct copy of this letter is attached as Exhibit 9.

34. Council 31 and Local 672 accepted Plaintiff's resignation from union membership on March 4, 2019.

35. Also on March 4, 2019, the School District received a letter from Union's counsel discussing Plaintiff's request to withdraw from the Union and directing the School District to continue to withhold dues from Ms. Bennett's paycheck. Specifically, the letter stated in pertinent part as follows:

"Based upon legal precedent and the collective bargaining agreement, the District should continue to withhold dues from Ms. Bennett until she gives notice to the Union within the appropriate window period as defined by her authorization card. In the event Ms. Bennett gives notice to the Union consistent with the terms of the agreement Ms. Bennett entered into with the Union, the Union will promptly notify the District that dues deductions should cease."

A true and correct copy of this letter is attached as Exhibit 10.

36. On or around July 29, 2019, Plaintiff sent a letter to David McDermott, Chief Financial Officer, Comptroller, and Treasurer of the School District, stating that "[e]ffective immediately, I have resigned my membership from the AFSCME Local 672." In that letter, Plaintiff also informed the School District that "you are no longer authorized to enforce any authorization I may have apparently given pursuant to a signed authorization form, or any authorization that Employer has inferred on my behalf, allowing Employer to make an automatic payroll deduction for Union dues or fees." A true and correct copy of this letter is attached as Exhibit 11. Mr. McDermott received a copy of this letter on or about July 30, 2019. Council 31 and Local 672 have treated this letter as a revocation of Plaintiff's dues-deduction authorization in the card that Plaintiff signed on August 21,

2017. Upon receiving confirmation from the Union that the School District should stop deducting Plaintiff's union dues from her paychecks, the School District immediately stopped her dues deductions from all future payroll cycles.

37. Although Plaintiffs seek damages in the form of the return of all dues collected from Plaintiff before June 27, 2018, the parties agree that the statute of limitations period covered by this case is April 26, 2017 through the present.

38. At all relevant times until July 31, 2019, an amount equal to dues was deducted from each of Plaintiff's paychecks, pursuant to the dues-deduction authorizations that Plaintiff signed. During the applicable limitations period, the amount deducted was \$23.74 per paycheck in 2017, \$24.37 per paycheck in 2018, and \$24.93 per paycheck in 2019 until July 31, 2019.

39. The deductions of an amount equal to dues from Plaintiff's paycheck have ceased as of August 1, 2019. The last such deduction was on July 31, 2019, which covered the Plaintiff's pay period for the period of July 15, 2019 through July 31, 2019.

40. The authorization for a member to have dues deducted for a set period of time, even if the member resigns from union membership in the interim, is important for Council 31 and its affiliated local unions because it allows the union to budget and plan effectively. Specifically, it allows the union to more effectively plan and make advance financial commitments, such as renting offices, hiring staff, and entering into contracts with other vendors. This commitment also makes administering dues deductions easier for the union and the employers that deduct union dues than that task would be if members could authorize and deauthorize deductions at will.

41. By signing a card like the 2009 and 2017 Union membership and dues-deduction authorization cards that Plaintiff signed, workers agree to become Union members and obtain membership rights. Those rights include the right to vote on whether to ratify a collective bargaining agreement, the opportunity to serve on bargaining committees, the right to vote in union elections, and the right to be nominated for or elected to union office.
42. In August 2018, Plaintiff attended a union membership meeting, at which a vote was taken on whether to ratify the Current CBA. A true and correct copy of the sign-in sheet for that ratification vote meeting is attached as Exhibit 12. The check mark to the left of Plaintiff's name reflects that she voted in the ratification election.
43. Members of Council 31 and Local 672 also have access to members-only benefits that are offered to all AFSCME members, including home mortgage assistance; access to apply for a low-rate credit card; access to scholarship programs for union members and certain family members; and discounts on wireless phone plans, auto insurance, life insurance, and legal services.
44. Since Council 31 has accepted Plaintiff's resignation from union membership, Plaintiff no longer has membership rights or access to members-only benefits, such as those set forth in Paragraphs 41 and 43.

Respectfully submitted,

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