

Wisconsin Institute for Law & Liberty: Milwaukee Public Schools' policy pays public employees to work for teachers unions

Posted on Thursday, Jan 28, 2021

>> **WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

Union leave policy results in public subsidy to labor unions, violates Constitution's ban on compelled speech

The News: The Wisconsin Institute for Law & Liberty (WILL) filed a [Notice of Claim](#), Thursday, on behalf of a Milwaukee resident challenging a Milwaukee Public Schools (MPS) [union leave policy](#). Under this policy, MPS pays public employees full wages and benefits to work for unions instead of the school district. This policy amounts to compelled speech because it forces Milwaukee taxpayers to subsidize labor union activities, which includes working on elections and lobbying. The policy also violates the Constitution's requirement that all spending be for a public purpose and not for the benefit of a private entity, like a labor union.

The Quote: WILL Deputy Counsel, Dan Lenington, said, "The Constitution guarantees everyone the right to speak, and also the right not to speak. This policy forces Milwaukee taxpayers to pay for the speech and political activities of labor unions by paying teachers and other employees full wages and benefits to work for unions. Taxpayer money should be spent on educating students, not helping labor unions."

Background: Milwaukee Public Schools has adopted a [union leave policy](#) (page 49) that permits MPS employees to use at least ten days per fiscal year for paid union leave. Any MPS employee using union leave is working solely as a "representative" of a labor union for the purpose of participating in "union-related activities." And under the MPS union leave policy, MPS employees are not restricted from engaging in a variety of political activities including advancing the direct interests of the public employee unions, as well as electoral activity, lobbying to influence public policy, and making political donations.

The United States Supreme Court recently affirmed in *Janus v. AFSCME* that "[c]ompelling a person to subsidize the speech of other private speakers raises similar First Amendment concerns." And the Wisconsin Constitution recognizes that the freedom of speech "includes both the right to speak freely and the right to refrain from speaking at all." The MPS union leave policy amounts to taxpayers subsidizing the speech and activities of labor unions – a form of unconstitutional compelled speech.

During the 2017, 2018, and 2019 school years, MPS spent thousands of dollars paying employees for hundreds of hours working on behalf of labor unions for the labor unions' private purposes. MPS has authorized union leave for the 2020–2021 school year and continues to spend taxpayer money on this policy.

WILL's Notice of Claim starts a 120-day timeline before a lawsuit against Milwaukee Public Schools can commence.

Read More:

- [Notice of Claim](#), January 28, 2021
- [Milwaukee Public Schools Employee Handbook](#)