

Michigan Teachers Union Suffers Right To Work Setbacks – Teachers Can Leave Unions At Anytime

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Keith J. Brodie
Partner

Yesterday a Michigan Employment Relations Commission (MERC) Administrative Law Judge (ALJ) ruled that the Michigan Education Association (MEA), which includes most of Michigan's teachers unions, cannot restrict teachers' ability to leave the unions under Michigan's Right to Work law. The MEA had taken the position that teachers could only resign membership from the union during a singular window during August of any given year. Assisted by the Mackinac Center, four teachers from Saginaw challenged the "window period" by [filing unfair labor practice charges](#) with MERC last October. The ALJ agreed with the teachers that under Michigan's Right to Work law, the right to "refrain" from membership in a union meant that the teachers had the right to resign from the union at any time. The ALJ also addressed the obligation to pay dues, which, [as we have previously covered](#), can in some cases continue even after the employee has resigned union membership. The ALJ determined that the Right to Work provisions in Michigan's Public Employment Relations Act (PERA) amended PERA to include language similar to that in the National Labor Relations Act (NLRA), which governs private employers, and applied the NLRA standards to find that the teachers did not have a continuing obligation to pay dues because their written agreement with the MEA to pay dues was not a clear and explicit waiver of their right to stop paying dues upon resignation from the union. While some have speculated that Michigan's Right to Work provisions would prevent such continuing dues deduction altogether, this decision suggests that irrevocable agreements to continue to pay dues even if an employee resigns from the union will be enforceable in Michigan, as long as the agreement meets the NLRA standards that such a waiver be clear and explicit. The irrevocable period of such agreements is also limited by federal law to one year. However, an individual's right to resign from the union cannot be restricted. The ALJ's decision will likely be appealed by the MEA to full MERC Commission, but as the law stands currently, the ruling could have far reaching effects for public employee unions. For the MEA, the ruling could significantly impact funding of the unions. It is likely to Republican controlled MERC will adopt the ALJ recommended order. However, appeals by the MEA are likely and this issue may ultimately end up before the Michigan Supreme Court. The full ALJ decision is available on the Mackinac Center's [website](#).

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