NO. 16-1466

In the Supreme Court of the United States

MARK JANUS,

Petitioner,

v.

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 31, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

AMENDED BRIEF OF CHILD PROTECTIVE SERVICE WORKERS AND THEIR REPRESENTATIVES AS AMICI CURIAE IN SUPPORT OF RESPONDENTS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Other Authorities—continued

INTEREST OF AMICI CURIAE[1]

Amici curiae, listed in the attached appendix, work in child-protection agencies across the country, or represent workers employed in those agencies. They also have intimate familiarity with the types of exclusive-bargaining relationships the Court approved in *Abood*, where state laws oblige unions to bargain on behalf of all similarly situated employees, and require in return that all employees pay a fair share of the unions' costs of representation. This is because amici work in unions that operate under such exclusive-bargaining arrangements, and they are deeply involved in their unions' efforts to improve outcomes for at-risk children. They write to tell about the strong employee-agency relationships fostered by these exclusive-bargaining systems, which have flourished in the decades since *Abood* was decided. They also write to tell their stories of the often-unseen but vital work that employees do through their unions to improve the lives of the children in their charge, in ways that are completely divorced from politics, and do not implicate the concerns that petitioner raises.

SUMMARY OF THE ARGUMENT

In large state and local agencies, interactions between employers and employees can never be perfect. Often there are thousands of employees in multiple offices, making it impossible to separately negotiate the

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[1] Petitioner and respondents have each lodged blanket amicus consent letters with the Court. No counsel for any party authored this brief in whole or in part, and no entity other than amici or their counsel made a monetary contribution to the preparation or submission of this brief.

terms of every worker's employment, address every individual work-related concern, or consider every single idea for improvement. In short, there is simply no way every person's individual needs can be addressed.

In many states, agencies and employees alike have found that the best course to follow in this imperfect world is the one laid out for them in *Abood*: granting unions a formalized, institutional place at the bargaining table—as the voice of all employees, supported by all employees. In the decades since *Abood* was decided, the states that have utilized such exclusive-bargaining systems, supported by fair-share fees, have found their benefits to extend far beyond the bargaining table. These systems have fostered mutually beneficial and enduring relationships between employees and their agency employers that facilitate exchanges of ideas, allowing employees to inform their employers' reform efforts—and creating avenues for their employers to effectively implement those reforms.

Amici know personally of the power of these relationships, because this phenomenon has played out in the unions and child-protection agencies where they work. Amici's unions have engaged in collaborative projects with child-protection agencies through which they have helped formulate, develop, and implement agency-specific policies, provided training, and taken part in joint labor-management oversight committees—all grounded in relationships that began through collective bargaining. Many of these projects are funded by unions themselves, often through fair-share fees, but they take place far from the political rancor of policymaking, and far out of the public eye. Most take place in the humdrum realm of day-to-day personnel management. But in the

agencies where amici work, these varied project initiatives have led to measurable improvements along the only metric that really matters: their capacity to protect vulnerable children. And far from suppressing dissent, amici's unions give voice to the employees on the front lines protecting children, allowing them to communicate their concerns for children and the ways in which the quality of their services might be improved.

Amici's experiences thus confound the caricature of public-sector unions offered by petitioner and his amici, in which fair-share-supported unions are portrayed as purebred political animals that exist to extract fees from dissenters to fund highly politicized ideas they hate. It is essential for the Court to appreciate the ways in which this picture of fair-share-supported unions is false and misleading, not only to properly understand states' compelling reasons for maintaining fair-share arrangements, but also to appreciate that the true costs of a ruling in petitioner's favor—both tangible and intangible—would be far more serious than he and his amici are willing to acknowledge.

If nonmembers cannot be compelled to pay their fair share of the costs associated with collective bargaining and contract administration, and unions are forced to bear that additional financial burden while non-member employees get a free ride—then union members' ability to contribute to collaborative projects with agencies, and enhance their employees' ability to protect children, will be dramatically curtailed. The friction that will result from union-members being forced to carry free-riders will diminish unions' ability to be good partners with agencies, sowing discord that will threaten labor peace and could trigger the unraveling of the careful balance of

interests states have struck in exclusive-bargaining systems. As these systems degrade, the people who will suffer the most will be the vulnerable children these agencies are charged with protecting.

The troubles with this case are amplified considerably by the absolutist nature of petitioner's all-or-nothing challenge—which demands that he enjoy the right to be free from paying a single dollar to support any union activity based on the bald assertion that every single thing unions do is political. But there is no record in this case about what public-sector unions *actually do*—in Illinois or anywhere else. The Court is thus being asked to overrule decades of precedent, and craft a new constitutional rule to be cemented for all time, based on the self-interested, misleading, and distorted view of unions that has been painted for the Court by union detractors. That is not only grossly unfair to the states, the unions, and union members, it is also just a bad way of going about doing constitutional rulemaking.

ARGUMENT

I. The experiences of those who work in fair-share-fee-supported unions demonstrate the baselessness of their detractors' complaints.

Petitioners and their amici ask the Court to overrule precedents that have stood for decades, and upend child-protection systems across the country, all based on a misconception of what public-sector unions really do in the states that mandate fair-share fees, and an underappreciation of the costs that a ruling in petitioner's favor would entail. They do all this simply so that they can avoid paying even a penny in fair-share fees to public-sector unions. The Court should reject this gambit.

A. Fair-share-fee supported unions are indispensable components of the vital public institutions they serve, not political interest groups.

Petitioner's argument for abandoning *Abood* depends upon getting the Court to accept its portrayal of public sector unions as little more than special interest groups. As petitioner and his amici see it, *everything* unions do is "inherently political," whether it concerns "collective bargaining," or "other, concededly nonchargeable activities." PLF Amicus Br. 6; *id.* 4. This unsubstantiated vision of the relationship between agencies and unions in states providing for exclusive bargaining is misleading and profoundly unfair to unions, agencies, and employees alike—especially when it comes to unions that represent employees working in child-protection agencies.

The work these agencies do is far more important than mere politics—serving one of the state's most uncontroversially vital and compelling interests: "safeguarding the physical and psychological well-being" of vulnerable children. *Maryland* v. *Craig*, 497 U.S. 836, 852-853 (1990) (internal quotation omitted). So surpassingly important is this interest that it prevails even operating "in the sensitive area of constitutionally protected rights," *New York* v. *Ferber*, 458 U.S. 747, 757 (1982), limiting even "parental freedom and authority in things affecting the child's welfare," *Prince* v. *Massachusetts*, 321 U.S. 158, 167 (1944) (holding that State's interest in child safety prevailed over parent's First Amendment challenge to statute prohibiting children from distributing literature in public thoroughfare).

Moreover, as amici personally attest in the examples below, the public-sector unions amici represent are no

special-interest lobbying groups. They are instead the embodiment of the collective wisdom and experience of their employees.

These employees may differ on whether to elect Republicans or Democrats, on the specifics of immigration reform, and on many other topics, but they share an unflagging devotion to at-risk children, which often requires that they put themselves in harm's way. They know that their unions are often the only effective voice for vulnerable children, who have no voice of their own, no coterie of paid lobbyists to push their interests. And they are painfully aware that without unions to raise their concerns, the only thing that might bring them to light is the public spotlight that comes after a child dies.

In the states that have expressly carved out a role for unions as exclusive representatives, the bargaining table has proven to be far more than the setting for a zero-sum game using taxpayer chips. It has proven to be a springboard to deeper relationships between agencies and employees that have flourished in the decades since *Abood* was decided. These relationships are based on far more than political clout. Rather, they are based on a trust and mutual appreciation built over substantial time, and the shared understanding that agencies profit from listening to the collective voice of their employees, adding value to the agencies' efforts to help children in trouble. Simply put, states know that that union contributions make their agencies better. Much of this work takes place out of the public eye, and it has virtually nothing to do with politics.

1. Massachusetts

Peter MacKinnon is a social worker in the Massachusetts Department of Children and Families (DCF), and

president of the Service Employees International Union (SEIU) Local 509, the union that represents the state's human service administrators and educators. When a four-year old boy, Jeremiah Oliver, tragically died in 2013 after suffering abuse and neglect while his family was under DCF supervision, Peter's union members joined together with their agency employer to improve the state's child-protection system, so that no other children in Massachusetts would suffer Jeremiah's fate. Peter's union brought its members' expert insights to the project, helping to develop and implement a series of tangible, systemic improvements to DCF practices.

Over an intensive eight-week process, union members worked shoulder-to-shoulder with the state to completely revamp its intake and supervision policies. The resulting reforms reflected the commonsense, safety-focused approach that union members brought to the table, which will better protect every child under DCF supervision. After the policies were developed, the union played an integral role in implementing the reforms.[2] This joint work earned the strong support and involvement of the State's Republican governor, Charlie Baker, who was so taken with the efforts of Peter and Local 509 that he mentioned them both by name in his 2016 "State of the Commonwealth" address.[3] These bipartisan accolades

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[2] Paula J. Owen, *DCF cites stronger policies in place since Oliver case*, Worchester Telegram, Aug. 22, 2015, <https://goo.gl/ATiKeR>.

[3] Office of Governor Charlie Baker, Press Release, *Governor Baker Delivers State of the Commonwealth Address* (Jan. 21, 2016), <https://goo.gl/3HUzNr>.

demonstrate that their efforts were focused on making improvements in their workplace and providing better service, not on politics.

This high-profile collaboration was only possible because of a strong partnership between union and agency that had begun decades before, stemming from Local 509's stable exclusive bargaining relationship with the agency. That exclusive-bargaining relationship fostered lines of communication from front-line employees to management, allowing union members to bring information from their day-to-day experience about outdated technology and inadequate training to the agency's attention. The unions also brought expert guidance and research support, including on the issue of excessive caseloads and the demonstrated harm they do to children.[4]

That long history, developed largely in private, proved to agency employers and policymakers that union members knew better than anyone else that, for the at-risk risk families and children in their charge, their efforts could mean the difference between life or death. That gave the union credibility with agency decision-makers and the public, making a fair exchange of ideas easier during a difficult period.

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[4] E.g, Social Work Policy Institute, *High Caseloads: How do they Impact Delivery of Health and Human Services* (Jan. 2010), <https://goo.gl/wfjH8L> (noting the "longstanding" concern about caseloads in child welfare agencies around the countries, and outlining numerous studies showing correlations between high caseloads and increased rates of child-abuse reports, lower worker retention, and higher rates of caseworker emotional exhaustion).

Most of the reforms that resulted from this collaborative process involved the mundane stuff of ordinary personnel administration that the Court has held to be beyond First Amendment protection, *Connick* v. *Myers*, 461 U.S. 138, 146-147 (1983). It was far from a politicized lobbying effort. It was instead an effort to provide expert guidance to key decision-makers, based on employees' expertise, about what works, what does not, and to operationalize reforms within the agency, making the agencies work better on a broadly non-partisan basis.

2. California

Michael Green is the Los Angeles County Regional Director of the SEIU Local 721, which exclusively bargains for all social workers and support staff in the county's Department of Children and Family Services (DCFS). His union has engaged in a more formalized process to transmit union members' expert insights to their employers, helping to staff a "caseload accountability panel," the "CAP," which is chaired by David Green, a member of Local 721 and a children's social worker. The CAP is similar to government-labor management committees that have been created in child-protection agencies across the country.[5] The CAP has collaborated with agency management to institute a number of reforms to the DCFS.

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[5] See, e.g., Allyne Beach & Linda Kaboolian, John F. Kennedy School of Government, *Public Service, Public Savings: Case Studies in Labor-Management Initiatives in Four Public Services* 26–29 (Aug. 1, 2003), (outlining similar joint management-labor committees in child-protection agencies operating in Cuyoahoga County, Ohio, and the State of Oregon), <https://goo.gl/DfpLnB>.

When policymakers set specific targets to reduce caseloads for children's social workers, the CAP supported the implementation of that effort in a variety of ways. The CAP facilitated the creation of a special team of caseworkers devoted solely to reducing agency backlog. It also developed mentoring and exit-interview programs that have improved retention, thereby reducing the disruption that puts pressure on caseloads—with the side benefit of saving the county money on recruitment and training, a change that no one could disagree with. The CAP also participated in the recruitment, vetting, hiring, and training of more than 1,000 employees to decrease caseloads and increase quality.

The CAP has also undertaken a variety of efforts that have directly improved the safety of children in DCFS care. CAP efforts led to the creation in 2015 of DCFS University, a facility with classrooms, computer labs, and simulation labs where new social workers can role play situations they might encounter when they knock on the door of a home where a child is in distress. This leaves them better prepared to deal with the emotional stress and danger they might encounter in the field, so that they can concentrate on doing what is best to protect the children they encounter.

The CAP has also supported efforts to provide better equipment to caseworkers in the field, and led an effort to streamline the intake and investigatory processes, both of which improve child safety by helping caseworkers respond faster and more effectively to children in danger. These efforts also saved taxpayer dollars by helping caseworkers finish their work during normal business hours, thereby reducing overtime pay.

These efforts to protect children protect caseworkers too. And they benefit all caseworkers, not just those who choose to be union members. That might be an insignificant matter for child-support specialists like Janus, who work in home-office administrative capacities. Pet. Br. 5. But worker safety has proven to be a matter of life or death for other employees in sister agencies to his own within the Illinois child-welfare system. Caseworkers in the Illinois Department of Children and Family Services (DCFS) regularly face danger as part of their job. More than a dozen have been attacked or seriously threated since 2013, with several employees hospitalized.[6] In fact, last fall, while Janus was pursuing his effort to have the Court revive his lawsuit, his fellow DCFS employee, Pamela Knight, was brutally assaulted while trying to take protective custody of a child. She was beaten so savagely by the child's father that she suffered traumatic brain injuries and has been in a persistent vegetative state since the attack.[7]

Collaborative efforts like the CAP are vital to address these serious issues, but they seldom delve into hot-button political topics. And none of the efforts outlined above lined the pockets of the unions or union members; indeed, each of these collaborations involved a commit-

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[6] David Jackson, *At least a dozen Illinois DCFS workers attacked, seriously threatened since 2013*, Chi. Tribune, Nov. 20, 2017, http://www.chicagotribune.com/news/watchdog/ct-dcfs-workers-met-20171117-story.html.

[7] David Jackson and Gary Marx, *DCFS investigator is assaulted while trying to aid a child in Sterling, Ill.*, Chi. Tribune, Oct. 14, 2017, <https://goo.gl/icGzub>.

ment of the union's *own* resources. These projects simply mean to make the agencies perform better and more efficiently, benefitting children, employees, and taxpayers alike.

The benefits of such collaborations have been measurable, as demonstrated by a study conducted by the John F. Kennedy School of Government concerning a similar joint labor-management steering committee in Cuyahoga County, Ohio. This steering committee was staffed on the agency side by the Cuyahoga County Health and Human Services Department of Children and Family Services, and on the union side by the American Federation of State, County and Municipal Employees, Local 1746. Beach, *supra* note 5, at 27–28. The study showed that improvements driven by the steering committee could be traced to progress in labor-management relations, including pronounced drop in employee grievance rates and lowered turnover rates among social workers. *Ibid.* More importantly, the study also showed tangible gains in the Department's ability to help at-risk children across a number of measures, including:

- A decrease in the number of children in county custody, from 6,400 in July 2001 to 4,772 just one year later;
- An increase in the number of children experiencing only one foster-home placement before going home or being adopted;
- A decrease in the number of children placed out of county or out of state;
- A critical decrease in the amount of time between case intake and investigation, from a wait of six months to less than 60 days;

- Most importantly of all: fewer child deaths for children under Department supervision, from 24 in 1998 to 18 in 2001, a trend that continued downward in ensuing years. *Ibid.*

3. New Jersey

Hetty Rosenstein is the New Jersey Director of the Communications Workers of America, AFL-CIO, which serves as the exclusive-bargaining representative for 2,500 of the professional, administrative, and supervisory workers in the State's Division of Youth and Family Services (DYFS). Hetty and the union are fixed stars within the state's child-protection system. Over the last 35 years, governors, agency leadership, and managers have all come and gone, and with them round after round of stalled or unfinished efforts to address the very serious challenges faced by the agency.

But throughout that time, Hetty and the union have been the one constant, giving voice to the thousands of child-protective-services workers working to reduce caseloads and implement other measures to safeguard neglected and abused children, becoming institutions in their own right within the system. The union has contributed its own plans to operationalize reform efforts within the agency. It has hired experts on its own dime to study issues in the system. It has also brought problems with the implementation of reform efforts back to agency heads to ensure that their desired reforms are properly implemented. Notably, union members brought to light accounting tricks that certain agency personnel were using to evade the caseload limits that policymakers had imposed.

* * *

These are just a few examples of the thousands of union-agency collaborations occurring around the country. But they serve to illustrate the invaluable roles that public-sector unions play within these agencies: providing expert insights, taking part in formal joint-labor-management collaborations, or simply playing a constant, institutional role in agencies' efforts to protect children. These examples also serve to demonstrate the strong interest that states have in preserving exclusive-bargaining systems providing for fair-share fees. States understand that these kinds of strong agency-union collaborations are built on relationships that can ultimately be traced to exclusive-bargaining, and that these systems are responsible for vastly improving their agencies in ways that would not be possible otherwise. This is exactly why states make exclusive-bargaining and fair-share fee arrangements integral parts of their child-protection systems. States find that these systems work best to ensure effective and efficient delivery of public services.

The states' interest in protecting these ongoing relationships justifies fair-share fee arrangements even under circumstances where they might not be permissible in other contexts, and is more than sufficient to justify any "limited infringement on nonunion employees' constitutional rights" they might entail. *Chicago Teachers Union, Local No. 1, AFT, AFL-CIO* v. *Hudson*, 475 U.S. 292, 303 (1986).

Exclusive-representation and fair-share fee arrangements preserve more than "labor peace" narrowly defined. *Lehnert* v. *Ferris Faculty Ass'n*, 500 U.S. 507, 520 (1991). Rather, they are essential to promote the trust and respect that has allowed these agency-union

relationships to flourish. This trust exists between the unions and their members, who count on the unions to zealously protect their interests and honor their contributions. And it exists between the unions and the agencies, who count on unions to be honest brokers with the clout to convince employees to help them implement improvements. Nothing could be more corrosive to this trust, and the productive relations between unions, their members, and government agencies that states have come to rely upon in fair-share arrangements, than a Court-imposed system that fosters the perception that some employees are entitled to a free lunch.

The potential consequences that would flow from changing course now and overruling *Abood* would also be far more severe than Petitioners and their amici appear willing to admit, and will undermine personnel management systems that states rely upon to ensure the delivery of vital services. The detractors of fair-share-fee arrangements deem the cost of their free riding justified so long as it does not literally kill the basic institution of public-sector unions. They offer rosy projections of how unions might make up for funding they know unions will lose, both from loss of fair-share fees from the free-riders themselves, and the loss of union members who will be unwilling to pick up their slack by paying more. E.g., Buckeye Instit. Amicus Br. 19-20; Cal. Public Teachers Amicus Br. 2022. They maintain that public-sector unions could take the hit and still keep operating.

But even if all these doubtful propositions were true, their calculations fail to capture the true cost of overruling *Abood*. The loss of critical revenue will leave unions with substantially fewer resources to devote to implementing reforms, participating in oversight committees,

or taking part in other collaborative activities. Without unions to push and staff these efforts, the states will have to resort to less-effective means to make up for that loss—such as expensive consultants who are strangers to the agency. More likely, these roles will simply go unfilled. That will put children at risk.

Further still, any retreat by union personnel from these collaborations with agency management—which might be necessary for public-sector unions to continue fulfilling their duty to fairly represent all employees, (even free-riders)—will diminish their utility to the states. This will be compounded by the breakdown in labor cohesion that will result when free-riders are introduced to the mix, which will affect employee morale and diminish faith in the union, making it even harder to recruit new union members—perhaps the only effective way to make up the revenue shortfalls they would experience. The result is likely to be more confrontational, more political, and more corrosive relationships between unions and employers. In short, overruling *Abood* could produce a cascade of labor difficulties that realistically *could* spell the artificial demise of public-sector unions.

B. Fair-share supported unions channel employees' speech—they neither limit nor coerce speech.

In their rush to give non-union employees a free ride in the collective bargaining process, petitioner and his amici ignore another set of costs that their effort to overrule *Abood* would impose—the costs to union members' speech rights. One thing that amici's stories all have in common is that they all involve bottom-up efforts to contribute to their employers' work. The fact that these ef-

forts were successful illustrates how unions in exclusive-bargaining relationships with agencies can provide a pipeline for ideas, giving voice to concerns that would otherwise go unaddressed, and creating a forum for addressing agency managers that employees would have no other way to effectively reach. If petitioner's broadside attack on *Abood* and fair-share fee arrangements is successful, it would undermine the relationships necessary to sustain this idea pipeline. Accordingly, the remedy petitioner seeks to impose has speech costs of its own.

There is still another group whose speech rights are impacted by this case: the *non*-union members who like having a union represent them in collective bargaining and grievance hearings, and appreciate having the union serving as their collective voice, but do not necessarily want to support the non-chargeable political activities that unions engage in—that is, the many non-union members who like the arrangement just the way it is. If a fair-share fee system is invalidated, these non-union members lose that option, and a new system will have to be implemented. And the highly political environment surrounding unions these days will make it hard, if not impossible, to create an opt-in arrangement that would accommodate these non-union members. Accordingly, their speech interests are sacrificed at the feet of the free-riders too.

By contrast, petitioner and other dissenters from agency positions have far less significant speech interests at stake. They already possess substantial protections against being compelled to contribute to union positions on controversial issues. And invalidating fair-share fee arrangements will not meaningfully impact their ability to communicate on issues of concern. It is not as if the

existence of exclusive-bargaining systems cuts off access to policymakers that non-union employees would otherwise have, or diminishes their ability to express their political or ideological views. Non-union employees enjoy the same rights to address agency leaders as everyone else. Exclusive-bargaining arrangements simply require their terms of employment to be negotiated exclusively by the union, thereby preventing non-union employees from negotiating those terms on their own.

Petitioner raises no constitutional objection to that practice. He simply objects to being forced to contribute monetarily to the union's efforts to negotiate on his behalf. All he wants is a free ride. Accordingly, a ruling for the petitioner will do nothing to vindicate his right to voice opinions on matters over which he and the union apparently disagree. He and his fellow dissenters thus have hardly any First Amendment interests at stake in this case at all.

II. Petitioner's all-or-nothing approach to fair-share fee statutes is itself fatally deficient.

The problems with petitioner's First Amendment challenge are only made worse by the all-or-nothing way he has gone about pursuing it. Building upon his unsound premise that everything unions do involves "political speech," Br. 9, petitioner contends that any statute that would compel him to pay any fee to support any union activity is constitutionally infirm, regardless of the specifics of the statute, the nature of the charge, the nature of his objection, or the nature of the union activity at issue.

To effectuate that wish, he asks the Court to discard an approach that is sensitive to these factors—one that

has been applied for decades. That is even a more drastic move than the one offered by petitioners in *Friedrichs*. They, at least, coupled their broad demand to overrule precedent with a narrower means of ruling in their favor. Pet. for a Writ of Certiorari, *Freidrichs v. Cal. Teachers Ass'n*, No. 14-915 i (Jan. 26, 2015). Petitioner offers no comparable half-measure. And the only reason he offers for this jarring departure from precedent is that some members of the Court have expressed difficulty in determining where the lines through these various factors ought to be drawn.

But that path that petitioner offers is a perilous one for the Court. For one thing, the Court is in no position to evaluate for itself how unions operate. And it should pause before basing a constitutional rule on the misleading and inaccurate portrayal of union activities offered by petitioner and his amici, which fails to account for many of the activities that public-sector unions undertake that *are* completely divorced from politics, such as those discussed in Section I, *supra*.

For another, petitioner's approach fails to account for the substantial variation that exists between fair-share fee statutes. Petitioner's position would invalidate fair-share fees even in places like New Jersey where fair-share fees are capped by statute at 85% of full membership dues, N.J. Stat. 34:13A-5.5(b), even if that is less than the full amount of chargeable expenditures the unions actually incur. In other words, in New Jersey, non-union members already get a partially-free ride, funded by the union members in their midst. Upsetting that system, and further subsidizing that free ride, simply to vindicate petitioner's illusory speech interests makes little sense.

These infirmities in petitioner's overbroad position should require that it be rejected outright. See, e.g., *Locke* v. *Karass*, 555 U.S. 207, 221 (2009) (Alito, J., concurring) (because Court had rejected petitioners' "all-or-nothing position, contending that nonmembers of a local may *never* be assessed for *any* portion of the national's extra unit litigation expenses," petitioners appropriately got nothing). To the extent some members of this Court have expressed doubts about whether *Abood* and its progeny have drawn the right lines in its jurisprudence about agency fees, the Court might consider redrawing those lines in another case where a party makes that request. But one need not deny the importance of the constitutional questions raised here, or the Court's vital role in resolving them, to recognize that this case presents an inappropriate vehicle for instituting anything like the absolutist rule petitioner advocates.

CONCLUSION

The judgment of the court of appeals should be affirmed.

Respectfully submitted,

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January 23, 2018

APPENDIX

INDEX

APPENDIX

Peter MacKinnon – Peter MacKinnon is a social worker in the Massachusetts Department of Children and Families (DCF), and president of the Service Employees International Union (SEIU) Local 509, the union that represents the state's human service administrators and educators.

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