



# Newport News City Workers Union

## Frequently Asked Questions about Public Sector Collective Bargaining in Virginia

### 1. Is Collective Bargaining an Internationally Recognized Human Right?

According to the United Nations International Declaration of Human Rights, it is a fundamental human right, “to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.”<sup>1</sup> In fact, this right is “essential for the effective functioning not only of labour markets but also of overall governance structures in a country.”<sup>2</sup>

Historically, Virginia had been one of only 3 Southern states (along with North Carolina and South Carolina) that had an outright ban on collective bargaining for public employees, including City of Newport News employees (sanitation workers, teachers, water & sewer department, fire, police, street maintenance, human services, parks & recreation, etc).

In fact, the United Nations International Labor Organization [ruled in 2007 that denying collective bargaining for public employees](#) violates ILO freedom of association principles by frustrating the very purpose of forming workers' organizations. <sup>3</sup>

Most recently, the State of Virginia General Assembly [passed a bill that went into effect May 1, 2021](#) <sup>4</sup> allowing municipal workers to collectively bargain, once their city council's pass a resolution. A few local governments such as Alexandria, Fairfax County, and Loudoun County have done so, however the City of Newport News has not.

### 2. What is Collective Bargaining?

Collective bargaining essentially ensures that there is more democratic input at work.

Collective bargaining is the basic process of negotiation between workers who have organized a union and their employer on issues such as wages, work rules and policies, staffing ratios, health and safety on the job, benefits, insurance premiums, work schedules, vacation, etc.

Collective bargaining will make it easier to manage City operations by establishing standardized policies, wage scales, benefits, and not having to negotiate every small problem with individual workers. Collective bargaining gives organized workers a tool through which to change unfair working conditions and have a real voice on the job.

The process of collective bargaining should result in a legally enforceable collective bargaining agreement between workers and their employer. A legally enforceable collective bargaining agreement ensures that agreements between management and workers are binding.

Without the right of workers to reach a legally enforceable agreement with their employers, management has the total authority to create and interpret policies. Without collective bargaining, the employer may change policies without notification or input of the workers impacted.

### **3. What does the US Constitution say about unions?**

The First Amendment to the United States Constitution says: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

The exercise of First Amendment rights of speech, assembly, association and petition through collective action are a legitimate, protected means to bring about political, social and economic change.

“[T]he practice of persons sharing common views banding together to achieve a common end is deeply embedded in the American political process . . . by collective effort individuals can make their views known, when, individually, their voices would be faint or lost.”<sup>5</sup>

“Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association, as this Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly.”<sup>6</sup>

First Amendment free speech rights “extend to more than abstract discussion, unrelated to action. The First Amendment is a charter for government, not for an institution of learning. ‘Free trade in ideas’ means free trade in the opportunity to persuade to action, not merely to describe facts.”<sup>7</sup>

### **4. What about City Council’s fiduciary responsibility for passing responsible budgets?**

That does not change with collective bargaining. Unions representing city employees will bargain directly with the City Manager. Once an agreement is reached between the city employee’s union and the City Manager, this is then brought to the City Council as a recommendation, that will have to be fully debated and discussed, just as any other budget proposal from the City Manager’s office. It will remain the City Council’s obligation to approve all city budgets, including wages and benefits of employees.

### **5. Won’t it cost the city millions of dollars to hire private consultants and lawyers to bargain and administer the collective bargaining agreements? We’d rather give that money directly to the city employees.**

Many cities decided not to use tax payer money on hiring private consultants and lawyers to bargain and administer the collective bargaining agreements. A city the size of Newport News already has a large Human Resources staff apparatus. The current staff could be simply trained to handling business in a collective bargaining environment. Enforcing and maintaining a collective bargaining agreement is similar to enforcing and maintaining city's current policies. Rather than having to adjust to the changes made by management, which currently happen on a regular basis, it would simply enforce bargained agreements which would only occur every few years.

Having collective bargaining will give the employees a deeper sense of pride in their work and will save the city money from reducing turnover costs.

## **6. Isn't now a bad time with our city's economic downturn due to COVID-19?**

Despite public support for policies that promote good jobs, the COVID-19 pandemic has repeatedly underscored how decent pay, health insurance, paid family and medical leave, and safety on the job are still far from guaranteed—even for workers deemed essential to their communities and the nation's economy. Moreover, pandemic-induced economic trends have only served to deepen existing inequalities, including long-standing racial disparities.<sup>8</sup> Confronting these challenges will take more than simply raising minimum standards.

Government agencies—which are more constrained in their ability to offer competitive compensation packages—often find it difficult to recruit and retain staff, but strong public sector unions can help employees bargain for family-supporting wages and benefits and grant them a voice on the job<sup>6</sup> while also increasing the quality of public services.<sup>9</sup> During recessions, for example, unions can help ensure that government budget decisions are equitable.

## **7. Is collective bargaining for city employees a matter of racial and gender equity?**

Virginia passed its right to work laws during the Jim Crow era when African Americans were systematically disenfranchised, before the passage of the 1965 Voting Rights Act. Without collective bargaining a largely African American workforce is denied a voice in establishing their working conditions, wages and benefits. If they are put in harm's way, they are provided no structural mechanism to impact city policy.

According to a June 2021 report by the Economic Policy Institute, *Unions can reduce public sector pay gap*<sup>10</sup>, "Black workers are more likely to work in local government than Hispanic and AAPI/Other workers. Black workers are overrepresented despite being less likely to have the bachelor's or advanced degrees required for many public-sector jobs." Additionally, due to the lack of collective bargaining, pay disparities for Black workers, when comparing private sector to public sector jobs is worse in Virginia (7.3% outside Virginia versus 18.6% in Virginia). This signifies that collective bargaining can help retain workers who might want to leave the municipal work force for higher paying private sector jobs.

The ban on collective bargaining in the public sector has led to the unmistakable prevalence of widespread race and sex discrimination in the workplace, in particular, unequal treatment of racial minorities and women in hiring, promotions, discharges and wage rates, as well as

racial and sexual harassment. Collective bargaining could offer public sector employees numerous tools to counter racism and sexism in their workplaces, from establishing truly objective criteria for employment decisions, to developing workable anti-harassment mechanisms.<sup>3</sup>

Citations:

1. United National Human Rights Charter, Right to Organize and Collective Bargaining: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightToOrganise.aspx>
2. International Labor Organization, International Declaration of Human Rights, Section 8. Freedom of Association and Right to Organize: <https://www.ilo.org/global/topics/dw4sd/themes/freedom-of-association/lang--en/index.htm>
3. International Labor Organization Report, Response to Complaint on denial of collective bargaining rights for public employees in North Carolina, Report No 344, March 2007 [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002\\_COMPLAINT\\_TEXT\\_ID:2909835](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:2909835)
4. Code of Virginia § 40.1-57.2. Collective bargaining. <https://law.lis.virginia.gov/vacode/title40.1/chapter4/section40.1-57.2/>
5. *Citizens Against Rent Control/Coal. for Fair Hous. v. City of Berkeley*, 54 U.S. 290, 294 (1981).
6. *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958)
7. *Abrams vs. United States*, 250 U.S. 616 (1919)
8. Alexandra Villarreal, “Coronavirus sharpens America’s already stark economic inequalities,” *The Guardian*, December 29, 2020, available at <https://www.theguardian.com/us-news/2020/dec/29/coronavirus-sharpens-economic-inequalities-america>; Bradley L. Hardy and Trevon D. Logan, “Racial Economic Inequality Amid the COVID-19 Crisis” (Washington: The Hamilton Project, 2020), available at [https://www.brookings.edu/wp-content/uploads/2020/08/EA\\_HardyLogan\\_LO\\_8.12.pdf](https://www.brookings.edu/wp-content/uploads/2020/08/EA_HardyLogan_LO_8.12.pdf).
9. Karla Walter, “Public Sector Training Partnerships Build Power” (Washington: Center for American Progress, 2019), available at <https://www.americanprogress.org/issues/economy/reports/2019/10/03/475355/public-sector-training-partnerships-build-power/>.
10. Economic Policy Institute “*Unions can reduce public sector pay gap*”. June 2021