

Friedrichs vs. California Teachers Association

A pivotal case on union rights goes before the Supreme Court

Source: NYSUT Field and Legal Services - NYSUT Communications

Editor's Note: In June 2015, the U.S. Supreme Court agreed to hear a California case the requirement that teachers contribute to unions, even if they don't join them or agree with their positions on issues. Since 1997, unions largely have been allowed to collect dues from all private or public employees they represent. Those who object don't have to contribute to political or lobbying activities, but they must chip in for the unions' efforts in fighting for better wages, benefits and working conditions; in other words, contribute their fair share. In New York state, public employees - like those represented by NYSUT - can join the union or opt to pay a fee toward the union work that benefits them. The loss of those revenues could potentially put a fiscal strain on unions across the nation. That's what will be at stake when the high court rules on the Friedrichs vs. California Teachers Association case.

What follows is a summary of the issue and a Q&A NYSUT is distributing to its local leaders. For updates, please visit www.nysut.org/unionvalue.

What You Need to Know

The Issue:

A legal case now before the U.S. Supreme Court, *Friedrichs v. California Teachers Association*, poses a potential threat to the strength of public-sector unions nationwide. What's at stake is the principle of "fair share" — that all who benefit from union representation should share fairly in the costs of that work.

In New York state, the law says that if you choose not to be a union member, you must still pay your "fair share" for the union's work that benefits you — for example, the higher salaries and benefits that unions negotiate, better working conditions, health and retirement benefits and so on. The law protects the "free speech" of those who are opposed to union membership by establishing a second option — fee payer — for those who opt out of full union membership. Fee payers contribute only toward the services that benefit them, but no one is or can be forced to join a union, pay union dues or contribute to political activity they don't support.

In New York state public schools, for example, employees can join the union or they can opt to pay a "fair share" toward the union work that benefits them. This "fair share" is also called an agency fee.

In *Friedrichs v. California Teachers Association*, some individuals have gone to court insisting they should be able to be "free riders." They want to share in the benefits of a unionized work place without contributing their fair share —or any share at all — but they want to still be

entitled to union representation and to all the benefits and contract protections the union negotiates.

A decision by the Supreme Court could come as early as December 2015. It likely would take effect immediately.

Frequently Asked Questions

Q: What would it mean if the Supreme Court says workers can opt out of a "fair share" fee in a unionized workplace and become free riders?

A: An adverse decision — which would run contrary to decades of law reinforcing union rights — could land like a wrecking ball aimed at union solidarity. Unions would be in the unfair position of still representing workers, negotiating on their behalf and improving their working conditions without the law's safety net requiring that all who benefit share in the costs. Dues-paying members would have to pay for the equal representation provided to non-members. This could undo union solidarity and destabilize the labor movement. We could expect that anti-union PACS would spend millions on campaigns attacking unions and urging members to become "free riders."

Q: How can unions withstand such pressure?

A: When members clearly understand the value of being in a union, they are willing, not only to pay union dues, but also to BE the union, active and involved. The best way to keep NYSUT and our locals strong is to make the powerful case that strong unions benefit workers:

- Salaries are higher in unionized workplaces.
- Health benefits, paid time off and retirement security are significantly better in unionized workplaces.
- Unions have achieved due process and basic job protections non-existent in non-unionized workplaces.
- Through unions, employees have a voice in safety, in working conditions and in ensuring high standards for their professions and in the services they provide.
- Where unions are strong, wages and benefits for all workers are better than in states with no union presence.

It is against individuals' self-interest to weaken a union in their workplace. Advances come from strong unions where member solidarity is steadfast and members are mobilized.

In New York state, unions are the essential force providing a counterweight to bad public policy, worker exploitation, corporate greed, unsafe conditions, over-testing and other violations of best educational practice.

Q: What is NYSUT doing in anticipation of this Supreme Court decision on union rights?

A: NYSUT has always enjoyed record-high union participation, with the percentage of those opting to be "fee payers" rather than full-fledged union members in the low single digits.

Even so, for more than a year, local leaders — assisted by field staff — have been reaching out to the small numbers of fee payers, resulting in significant progress in converting fee payers to members. The NYSUT officers and Board of Directors have made member organizing a top priority, adding seven Regional Political Organizers. We are doubling our communications ambassador network and developing outreach training for staff members to ensure that each is knowledgeable and articulate on the value of union membership.

Members who are organized, engaged and active know why the union has value to them, and carry that message to others. The facts and figures are at www.nysut.org/unionvalue.

If, as a result of a Supreme Court decision, an environment is created where, every day, every hour, we need to make the case for the value of union membership, we are ready and energized to carry that forward.

For more information

For updates, please visit www.nysut.org/unionvalue.

Quotable

"The only effective answer to organized greed is organized labor." *Thomas Donahue, Report to the Convention from the AFL-CIO Executive Council*

"Our labor unions are not narrow, self-seeking groups. They have raised wages, shortened hours and provided supplemental benefits. Through collective bargaining and grievance procedures, they have brought justice and democracy to the shop floor." *John F. Kennedy, speech, Aug. 30, 1960*

"The labor movement was the principal force that transformed misery and despair into hope and progress. Out of its bold struggles, economic and social reform gave birth to unemployment insurance, old-age pensions, government relief for the destitute and, above all, new wage levels that meant not mere survival but a tolerable life. The captains of industry did not lead this transformation; they resisted it until they were overcome. When in the thirties the wave of union organization crested over the nation, it carried to secure shores not only itself but the whole society." *Martin Luther King, Jr., speech to the state convention of the Illinois AFL-CIO, Oct. 7, 1965*

"I have always felt that it was important that everyone who was a worker join a labor organization." *Eleanor Roosevelt*

"I am opposed to 'right-to-work' legislation because it does nothing for working people, but instead gives employers the right to exploit labor." ***Eleanor Roosevelt***

"If I went to work in a factory, the first thing I'd do is join a union." ***Franklin D. Roosevelt***

"Only a fool would try to deprive working men and women of the right to join of their choice." ***Dwight D. Eisenhower***

"It was the labor movement that helped secure so much of what we take for granted today. The 40-hour work week, the minimum wage, family leave, health insurance, Social Security, Medicare and retirement plans. The cornerstones of the middle-class security all bear the union label" ***President Barack Obama***