

# California court ruling signals nationwide attack on teacher tenure, seniority rights

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A Los Angeles, California court ruled Tuesday that teacher tenure, seniority and other basic rights are unconstitutional. The ruling was immediately hailed by the Obama administration as a precedent for the entire country.

The ruling declares unconstitutional five California statutes, some in existence for over a hundred years. The laws guarantee the democratic right of teachers to a fair dismissal process and to job security. They also require that when budget cuts mandate teacher layoffs, the most recently hired teachers are the first to be cut. The judge placed a temporary stay on the ruling pending appeal.

The lawsuit, *Vergara, et al vs. State of California*, was funded by right-wing billionaires committed to “education reform”—a euphemism for the destruction of public education. The Walton family, owners of Walmart, and Eli Broad, an insurance mogul, poured millions of dollars into the nonprofit group that brought the lawsuit, “Students Matter,” which is headed by David Welch, a multi-millionaire Silicon Valley executive. The sponsors’ aim, in the words of Bloomberg News, is to transform “public schools to be run more like business.”

The attack on teachers’ tenure and job protections is part of an agenda, spearheaded by the Obama administration, to dismantle the public education system. Education Secretary Arne Duncan immediately praised the California ruling as creating a “mandate” for similar attacks on teachers’ rights across the country. The ruling created “a new framework for the teaching profession,” Duncan said, including a process for firing teachers that is “fair, thoughtful, practical and swift.”

Los Angeles County Superior Court Judge Rolf Treu, who issued the ruling, fully backed the plaintiffs’ reactionary and undemocratic arguments. Treu, who has a history of right-wing rulings, took his cue from the lead lawyer for the plaintiffs, Theodore Olson, solicitor general in the Bush administration from 2001 to 2004. Olson headed up the legal team that represented George W. Bush against Al Gore in the notorious Supreme Court case that sanctioned the theft of the 2000 election. Olson’s partner in the California case

decided Tuesday was Theodore Boultros, who successfully defended Walmart in a class action discrimination lawsuit filed by over a million female workers.

Three of the five statutes that were declared unconstitutional guarantee teachers the right to defend themselves during the firing process. A teacher can be fired for a variety of reasons ranging from “unsatisfactory performance” to “dishonesty” and “unprofessional conduct.” However, a teacher under these laws has the right to contest his or her firing and be reviewed by a three-person committee consisting of two teachers and a judge.

Judge Treu declared that this right of due process is “unconstitutional” because it is “too time consuming and too expensive.” He argued that this violates the “equal protection clause of the Constitution of California,” because bad teachers are supposedly more likely to be at economically underprivileged schools, meaning the protections “impose a disproportionate burden on poor and minority students.”

Treu ruled that due process for teachers should be eliminated and replaced with a firing procedure that allows teachers to be laid off at will.

From a legal standpoint, the ruling represents an effort to use the courts to bypass the legislative process. While anti-teacher groups have been working to change laws through the legislature, they have thus far been unsuccessful. The court ruling was seen as a way of imposing the desired measures through judicial fiat.

The California decision, like a Detroit bankruptcy court decision earlier this year allowing for cuts in constitutionally-protected pensions, is seen as a model for other states. US Representative George Miller, a California Democrat and close ally of House Minority Leader Nancy Pelosi, responded to the ruling by saying, “It is not only Californians who should celebrate today’s decision, but families in every state and school district across the country... Today’s ruling puts every school with similar policies on notice.”

Similar lawsuits are being planned for Connecticut, New

Jersey, New Mexico, New York, Oregon and other states.

At the heart of the *Vergara* case is the false and reactionary claim, endorsed by the Obama administration and both big business parties, that the crisis of public education in the United States is the fault of teachers.

In endorsing the ruling, Duncan reiterated this position, saying that “millions of young people in America... are disadvantaged by laws, practices and systems that fail to identify and support our best teachers and match them with our neediest students.”

In fact, it is the political establishment, acting on behalf of the corporate and financial elite, that is responsible for the crisis in education, not teachers. While trillions of dollars have been poured into Wall Street, education has been starved of funding. Public schools have been targeted to be shut down as part of a drive to sweep aside all social services that do not directly contribute to private profit.

In California, the K-12 education budget has been decimated by billions of dollars of cuts. Per pupil spending in California fell by 13.8 percent between 2008 and 2014. In some states, such as Oklahoma and Alabama, per pupil spending has fallen by over 20 percent over the same period.

More than 300,000 teachers and other education workers have been laid off over the past six years, presided over nationally by the Obama administration. In Chicago, some 50 schools have been shut down in the past two years alone. Throughout the country, public schools in working class areas are plagued by overcrowding, a lack of books and other materials, and dilapidated facilities.

Both Democrats and Republicans have endorsed this attack on teachers and public education. The Obama administration has led the way in promoting the mass firing of teachers as part of an overall attack on the working class in the aftermath of the 2008 financial collapse. Through programs such as “Race to the Top,” the executive branch has promoted “merit pay,” increased testing, teacher evaluations, and the expansion of for-profit charter schools.

In 2010, Obama hailed the firing of every teacher in Central Falls, Rhode Island after the teachers union stalled on accepting in full the school district’s demands for longer hours with no increase in pay.

For their part, the teachers unions have worked closely with the Democrats in implementing these “reforms” and have been among the most fervent supporters of the Obama administration. The unions responded to Tuesday’s ruling with typical cringing, saying merely that they would appeal the decision.

The unions have been working with Democrats in the state to pass “education reform.” The California Teachers Association supported Assembly Bill 375, which would have dismantled key aspects of teacher tenure and weakened

protections for teachers in the dismissal process.

The California ruling has dire implications for the entire working class. Not only is it a further step in the destruction of public education, it will also be used as a model for eliminating every remaining right that workers have won.

The venom of big business politicians toward teacher tenure reflects their attitude toward all limitations on unrestrained exploitation. Using the same logic, the *Vergara* ruling could set a precedent for striking down limits on hours worked or health and safety rules.

Both the Detroit bankruptcy ruling, which abrogates legal protections for workers’ pensions, and Tuesday’s decision declaring teachers’ tenure and seniority rights to be unconstitutional show that there is no limit to the pseudo-legal vendetta against the conditions and rights of the working class.

The defense of teachers and public education must be carried forward on a new political basis. This must begin with a rejection of all attacks on teachers and all school closings. It is not a question of determining which teachers to fire, but of halting all teacher layoffs and instead providing hundreds of billions of dollars to improve the public education system, including the hiring of hundreds of thousands of teachers at quality pay and benefits and full job security.

The claim by both political parties that there is “no money” for education is a lie. Nearly six years after the onset of the economic crisis, the rich and the super-rich have more money than ever, corporate profits are soaring, and the stock market is hitting new records almost every day. The problem is the capitalist profit system, which channels an ever greater share of the wealth to the very top. Social inequality in the United States is higher than ever. The state of California itself is home to the largest number of billionaires (111) in the country.

The defense and expansion of public education is incompatible with the continued stranglehold of the financial aristocracy over the political and economic system. The right to education and a quality job for all depends on the independent political mobilization of the working class in opposition to the two big business parties and the unions that back them, and on the basis of a socialist program.



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