

Appeal filed in California of court ruling against teacher tenure

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A court appeal was recently filed by the California State Attorney General to review the case of *Vergara v. California*, decided in the Superior Court of Los Angeles in June. The case aimed to repeal five provisions in the state's education code related to teacher tenure and due process.

The plaintiffs in the case, backed by corporate education reform groups such as StudentsFirst, founded by Silicon Valley multimillionaire David Welch, argued that the existence of tenure served to attract ineffective teachers to impoverished and minority schools, and that this constituted a violation of the equal protection clause of the 14th Amendment to the US Constitution.

The real aim of the *Vergara* case, which has been supported by the Obama administration, is to make it easier to fire experienced teachers and replace them with lower-paid, less-experienced instructors. This is seen as a critical part of the overall assault on public education in the United States.

In deciding the case, Judge Rolf Treu ruled the existence of teacher tenure to be a violation of basic civil rights for poor and minority children. The ruling opened the door to dismissals on the basis of political beliefs, opposition to further attacks on public education or even the teaching of unacceptable subject matter.

The *Vergara* ruling, if upheld, strikes down five statutes in the state's education code related to tenure and dismissal, including one that allows teachers to obtain tenure after two years of successful employment and three others governing due process rights for dismissing tenured teachers.

It also strikes down the so-called last-in-first-out statute, which requires that districts dismiss their most recent hires first in layoff decisions.

Obama's Education Secretary Arne Duncan called the decision "an opportunity for a progressive state with a tradition of innovation to build a new framework for the teaching profession." Similar lawsuits were then launched across the country, the most prominent of which was spearheaded in New York State by former CNN anchor Campbell Brown's Partnership for Educational Justice.

The administration of Democratic Party Governor Jerry Brown has appealed the case on technical grounds, and the governor himself has stated on numerous occasions that attacks on teachers and public education will go forward in one form or another.

Brown's appeal claimed that court decisions involving changes to the state's education code must be reviewed by a state appellate court before becoming law. The appeal also states that Judge Treu had failed to provide a detailed statement of the factual and legal basis for his ruling and had dismissed key parties in the case for reasons that were unclear or unexplained.

The appeal is backed by the California Teachers Association, which is heavily funding the reelection campaigns of Brown and other Democrats. While posturing as critics of "education reform" and billionaires like Welch, the unions are entirely on board with the attack on teachers and public education, seeking only to maintain their own position in the process as part of their alliance with the Democratic Party.

Brown sees working with the unions as an important means of pushing ahead with the attack on public education, particularly under conditions in which the school privatization movement has been plagued by various scandals and political infighting. One of the most prominent leaders in the corporate-backed education reform movement, former Washington DC

Schools chancellor and StudentsFirst CEO Michelle Rhee, recently stepped down from the latter for unexplained reasons to chair a Sacramento-area charter school chain run by her husband, Sacramento Mayor Kevin Johnson.

Public support for charter schools has also declined following a wave of financial scandals. The trade unions, however, far from opposing the increase in charter schools, are actively working to increase their presence there.

The percentage of unionized charter schools in California declined from 12 percent in 2009 to 7 percent in 2013. Of those remaining 7 percent, many are run by the unions themselves, particularly so-called “pilot schools” within the Los Angeles Unified School District. The unions hope that by partnering with state officials they may be able to increase union membership at the charters and thereby receive greater dues income.

Moreover, teachers unions throughout the state are now placing themselves at the forefront of the attacks on teacher tenure.

Last May, the state’s board of education denied a waiver request from the San Jose Teachers Association to increase the teacher tenure eligibility period under state law from two years to three years. Essentially agreeing with the education reform movement that teachers alone were to blame for poor educational outcomes, the union argued that, “a union can be an incubator of innovation in pursuit of educational excellence.”

The California Teachers Association opposed the local union’s efforts on the grounds that waivers cannot be granted to local districts and that the state legislature alone should implement such sweeping changes.

American Federation of Teachers President Randi Weingarten recently signaled support for union-led attacks on tenure on a national level during a July discussion at the Aspen Ideas Festival. Weingarten answered a question on teacher tenure laws in California by declaring, “Tenure was not [intended as] a job for life, nor was there an excuse for managers not to manage, or [for] a cloak of incompetence.”

Also at that discussion, the AFT president backed the CTA’s support for State Assembly Bill 215, removing due process rights for teachers under suspicion of misconduct. Weingarten said that there should be “no

hearing if you are guilty of misconduct. You don’t get a hearing, you’re fired.”

In a recent debate with his 2014 challenger for governor, Brown was asked if he opposed the arguments made by Judge Treu in the *Vergara vs. California* case. The governor essentially stated that he agreed with the judge’s findings but was seeking alternative means to implement them. He highlighted the fact that he had started two charter schools himself while mayor of Oakland, California, and that he was proud of the work he had accomplished with the state teachers unions in passing Assembly Bill 215.

Both of the major California Teachers Unions, the CTA and CFT (California Federation of Teachers), have already given the maximum allowable amount under state law to Brown’s reelection campaign. Under the Brown administration, thousands of teachers have lost their jobs, and hundreds of public schools have been converted to for-profit charters.



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