



A Union of Professionals

# 1274 Newsline



North Suburban Teachers Union – Local 1274, CFL, IFT/AFT, AFL-CIO

November 2015

## War on Workers: Supreme Court to Rule on Right to Work Case

A union member in this time of constant attacks on working families could understandably be excused for feeling battle weary. Every election, we are told, is the most important election, and every fight is the biggest fight against the longest odds.

It's important, though, to be aware of a case now pending before the U.S. Supreme Court that is part of the recent wave of attacks on workers and workers' rights in America.

In *Friedrichs v. California Teachers Association*, a group of educators backed by a right-wing pressure group filed a lawsuit that has made its way to the highest court in America. It asks the court to decide whether public sector unions may continue to charge nonmembers a fee equal to the cost of representing them to their employer. This fee is called "agency fee" or "fair share."



Plaintiff Rebecca Friedrichs

To appreciate what *Friedrichs* is about, it is important to understand how collective bargaining works.

Under current U.S. law, once a group of workers votes to form a union, the union becomes their exclusive representative.

In other words, the union is the only organization permitted to represent their interests to their employer. What's more, the union is required by law to represent their interests. This is true even if a worker chooses not to join the union and pay union dues.

It is easy to see how this could present a challenge for the union; it has the legal obligation to represent all workers in the workplace, whether or not they join.

To deal with this problem, unions developed the concept of agency fee, also known as fair share—because

it's only fair that employees who reap the benefits of a good union contract pay their fair share of the cost of negotiating that contract. The agency fee equals the amount of money needed to represent a member in collective bargaining. Other expenses, such as costs for political activity, are not charged to fair share payers—in other words, these nonmembers only pay for bargaining and administering a contract that covers their wages, hours and working conditions.



In the 1970s, a group of teachers in Detroit who did not want to join the Detroit Federation of Teachers or pay the agency fee brought a lawsuit, *Abood v. Detroit Board of Education*. They argued that having to pay the fee violated their First Amendment right to associate with whoever they wanted. The Supreme Court upheld the agency fee, saying it did not violate the First Amendment.

*Abood* has remained the law of the land since 1977. However, over the past few years, the Supreme Court has decided two cases calling that law into question.

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In 2012, the court held in *Knox v. SEIU* that the First Amendment does not permit a public sector union to impose a special assessment unless a worker opts in. Two years later, in *Harris v. Quinn*, the court said the First Amendment prohibits the collection of agency fees from home healthcare providers, who the court determined to be "partial" or "quasi" public employees, not full-fledged public employees like those in *Abood*.

Now there's the *Friedrichs* case. The court will choose what it decides on, but it is being asked to answer two questions: (1) whether public sector agency fee arrangements should be invalidated under the First Amendment; and (2) whether it violates the First Amendment to require public employees to opt out of paying full dues (as they must do now) rather than having to opt in, which would force unions to sign up members over and over again every year.

If the court rules in favor of Friedrichs, then fair share will be a thing of the past in all 50 states, turning all states into right-to-work states. This could make it more challenging for us to have the resources necessary to improve education for our students and protect the livelihoods and working conditions of our members.

At the end of the day, this is yet another attack by those who do not share our vision for worker rights, a strong middle class and the American dream. While the success of the case would put hurdles in our way, it could also offer an opportunity to go back to basics and reach out to our members with a positive message about unions. As the AFT put it, we can either agonize or organize. And if we organize, we can come out stronger.

Briefings are now being submitted to the Court from both sides. Oral arguments have not yet been scheduled but are likely to take place in mid-January, with a decision likely to be handed down by June 30, 2016. ■

## Dan Montgomery: The Myth of School Choice

IFT President Dan Montgomery addressed a packed room at the City Club of Chicago in October to weigh in on the state of education and the myth that "choice" is the solution to education inequities in Illinois.

Montgomery pointed to Niles Township High School as an example of the success of public schools. A stark contrast to the so-called choice models in Chicago and elsewhere that often allow schools to cherry pick the best students and exclude those with special needs, behavior problems and other challenges, District 219 welcomes all students in the community. The result? The school has graduated three Nobel Laureates. *That* is the promise of public education, he said.

While choice advocates imply that charters and other alternatives are the answer to perceived public school failings, the facts point instead to a greater need for what makes schools like those in Niles Township effective, including "healthy, well- resourced districts that provide high quality instruction, have no trouble attracting good teachers, have plenty of social workers and counselors, have programs for the parents and community, pay relatively well for the profession, and are entirely unionized," Montgomery said. "Is it any wonder that parents there do not clamor for some alternative schools for their children?" he asked.

In fact, a recent poll of Illinois voters found that school choice ranks dead last in their concerns about education. A lack of parental involvement, cuts to funding, overuse of standardized tests, the impact of poverty and hunger on student learning, class size, and difficulty attracting good teachers all rank ahead of choice.



While the IFT and the AFT do not oppose the concept of charter schools, charter successes are not the norm, Montgomery told the City Club audience. On the whole, charters have proven to do no better than neighborhood public schools - and many do worse. That's why the IFT proposes ending new charters and

requiring all charters to maintain the same standards of transparency as neighborhood public schools. The IFT also advocates for reigning in the power of the Illinois Charter Commission, he added, which grants charters to schools in districts that do not even want them.

The answer to what ails public education in Illinois is not more unproven alternative education options, Montgomery concluded. What our state needs, above all, is a period of "recuperation to rebuild the system of truly public, democratically-run schools in Chicago and statewide," he said. ■

For more on this story, including charts and graphs, go to [ift-aft.org](http://ift-aft.org).

## Rauner Holds Illinois Hostage

As Illinois' budget stalemate heads into its fifth month with no end in sight, it is important to recognize that this battle between Governor Rauner and the Democratic-controlled General Assembly is not really about the budget at all. If it were, there would be an active and perhaps even healthy debate between the two sides about the spending priorities for the state.

What is really happening here is that Governor Rauner is holding the state hostage in an attempt to advance his own unpopular priorities. He is simply using the budget process as leverage to pass what he calls his "turnaround agenda," a series of anti-worker, pro-wealthy and business-class initiatives that have no chance of passing through normal legislative channels. He has resorted to a high stakes game of chicken, hoping to make the Democrats blink first.



No one should be surprised by this tactic since it has been Rauner's plan all along. Throughout his campaign for office, he declared

his intention to "shut down the government" to implement his extremist, anti-worker agenda.

We all understand that Illinois has a budget crisis. In fact, there is widespread agreement that solving the problem must involve increased revenue. But Governor Rauner has insisted that he will not agree to any revenue increase until he gets the "structural reforms" included in his turnaround agenda. In other words, the governor doesn't plan to cooperate with anyone unless he can get his way, never mind that his agenda has nothing to do with the budget.

So what is his agenda? A series of so-called reforms aimed at stripping away the rights and dignity of the working class to provide Big Business and the wealthy with an unfettered reign. Many of those proposals are aimed at restricting the voice of workers by weakening their unions. Here are some of the lowlights:

- ♦ **End "Fair Share" dues.** The Governor would like to turn Illinois into a so-called "right-to-work" state by ending a union's right to collect "fair share" dues from workers who choose not to join.

- ♦ **Create "Local Employee Empowerment Zones."** Knowing that right-to-work has little chance of passing in

Illinois, Rauner has proposed giving all government entities across the state the right to create their own "right-to-work" zones, or death to workers by a thousand cuts.

- ♦ **End Collective Bargaining.** Rauner's plan would also allow local governments to strip away collective bargaining rights from all public employees. The list of items that could be exempted from collective bargaining would include: health insurance benefits, outsourcing of work to private contractors, staffing levels, evaluation, seniority, curricular standards in schools, time to conduct union business, and wage increases beyond a limit set by the employer.



- ♦ **Restrict Labor Organizations from Participating in the Political Process.** To Rauner and his ilk, when corporations and the wealthy make political donations, they are exercising their right of free speech. When labor organizations do the same, albeit on a much smaller scale, they are engaging in a "corrupt bargain." Rauner wants to restrict unions from participating equally in the political process.

- ♦ **End Prevailing Wage laws.** Government entities are required to award construction projects to the lowest qualified bid. Illinois, like many other states, has what is known as a prevailing wage law, guaranteeing that workers are paid a fair wage for those projects. Rauner wants to do away with such regulations that serve well to protect both workers and the public interest.

- ♦ **Workers Compensation and Tort Restrictions.** Rauner's agenda calls for changes to workers compensation laws that would make it much more difficult for workers who get injured on the job to collect on the insurance that covers medical costs and partially offsets lost wages. He is also pressing for legislation that would protect corporations from civil lawsuits, denying citizens the right to hold corporations accountable for negligence or malfeasance.

- ♦ **Pensions.** Regardless of the recent Illinois Supreme Court decision that struck down the last pension theft law, Rauner is proposing to place all current employees into the Tier 2 pension system for future earnings. And for good measure he is calling for a constitutional amendment to weaken the pension clause. In fact, the budget proposed by Rauner, which is required by law to be balanced, met that requirement only by including billions of dollars of hypothetical savings from the presumed passage of his pension theft law.

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## Strike Ends in East St. Louis

The East St. Louis Federation of Teachers, IFT Local 1220, ended its month-long strike on October 30th after teachers and support staff approved an agreement. Teachers and staff had been working without a contract since August 2014 and had accepted three consecutive years of pay freezes to help the district get back on sound financial footing.

The district, one of the poorest in the state, has been under state control since 2011 and said it needed to save \$10 million over the next 10 years. However, union members maintained that these savings would be achieved on the backs of teachers and support staff, and remained firm in their demand for fair treatment and just compensation. The new contract will offer substantial salary increases and improved insurance benefits.



The NSTU was among the groups that provided financial support and encouragement for Local 1220 members throughout the month-long struggle. ■

## Citizen Action Illinois Honors Weingarten

On October 15<sup>th</sup>, ten members of the NSTU joined hundreds of other union members, community leaders and progressive politicians in Chicago in honoring the work of Randi Weingarten, president of the AFT.



Citizen Action Illinois is the state's largest public interest organization. It is a coalition of groups and individuals who have joined together to push for social and economic justice. It has led campaigns for lower utility rates, fair taxes, affordable and quality health care, insurance and campaign finance reform, and stronger environment and food safety protections.

From the President, continued from page 3

Governor Rauner, who is used to having his way as the board-room bully, does not seem to be the least bit interested, willing, or prepared to govern in a democracy. He is attempting to treat the other branches of government like a rival company in a hostile takeover, and the people of Illinois like the downsized workers who simply must learn to live with less while he and his partners prosper. Fortunately the Democratic caucus in Springfield has thus far refused to succumb to his demands.

While we have had our issues with the leadership of the General Assembly in the past – particularly Speaker Madigan – they should be commended to this point for standing up against Rauner's so-called turnaround agenda.

In Solidarity,



### 1274 Newsline

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