

Friedrichs v. California Teachers Assoc.: The most significant U.S. Supreme Court case this term

This term, the U.S. Supreme Court will hear *Friedrichs v. California Teachers Assoc.*, a First Amendment case with implications for union membership and collective bargaining.

What is Friedrichs v. California Teachers Assoc. about?

Friedrichs is a lawsuit brought by 10 California teachers and a teachers' group, Christian Educators Association International, seeking to overturn a 40-year-old court decision, *Abood v. Detroit Board of Education*. In overturning this case, they seek to end "fair share fees," a fee that unions charge to non-members in order to compensate the union for engaging in collective bargaining, an activity that benefits members and non-members alike. Under well-established law, unions are required to bargain on behalf of every worker in a unionized shop, regardless of whether a specific worker elects to join the union. This means that union members and non-members share the benefits of working for a unionized employer, which are often significant. One study found that workers in unionized shops enjoy a wage premium of nearly 12 percent.

The plaintiffs no longer want to be required to pay "fair share fees," and argue that requiring them to do so violates their free speech rights under the First Amendment. They claim unions engage in a form of speech when they bargain on behalf of workers, but individuals cannot be forced to subsidize that speech because that would violate the First Amendment.

Irrespective of the question of whether these "fair share fees" are speech, there is an additional question. Currently, individuals are required to opt *out* of paying "fair share service fees". The question becomes whether it is a permissible practice to continue to do so and require employees to affirmatively object to subsidizing speech by unions, or whether the First Amendment requires individuals to affirmatively opt *in* to paying those fees, instead.

Who will this case impact?

If plaintiffs in this case succeed, workers would have no incentive to join the union and pay dues because the union will be required to represent them regardless. Eventually, the union would run out of funds, and all the workers would lose the benefits they gain from being unionized. A ruling for the plaintiffs would be a devastating blow to public sector unions and their future. All workers who would benefit from collective bargaining practices would lose.

Many minorities, including Asian Americans and Native Hawaiian and Pacific Islanders (NHPI) benefit from wage and benefit increases that come with collective bargaining, and in this way, collective bargaining closes the wage/race gap and ameliorates income inequality. Asian Americans Advancing Justice | AAJC signed on to the Leadership Conference for Civil and Human rights amicus brief on behalf of the California Teachers' Union Association, so unions can continue to effectively bargain on behalf of workers.