



CWA 9119
AFL-CIO

University Professional
& Technical Employees,
Communications Workers of
America 9119 • AFL-CIO

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U.P.D.A.T.E

UPTE members respond with membership campaign

Right-wing lawsuit on fair share fees threatens to undermine public employee unions

Anti-union, big money interests are backing a US Supreme Court appeal which seeks to undermine well-established labor law across the nation, and which could put the

future of all public worker unions in jeopardy.

The case, *Friedrichs v. California Teachers Association*, to be considered as early as the January 2016 Supreme Court docket, will decide whether represented employees will continue to be required to pay “fair share” fees to support the costs unions incur in bargaining and administering contracts.

No one is required to join a union, but the Supreme Court’s unanimous 1977 *Abood v. Detroit Board of Education* decision established that workers in a represented unit who decide not to become members would pay a “fair share fee” to cover the union’s costs to represent them.

Unfair burden

“Fair share is based on the principle that you should contribute to that which benefits you,” said Jamie McDole, UPTE’s vice president and a health care profes-

sional at UCSD.

“Without it,” she notes, “our public sector unions would be required to represent many more employees than are actually supporting the union financially – and that would be a highly unfair and unsustainable situation.”

If the anti-union side in the *Friedrichs* case prevails, unions could be overwhelmed with “free riders” who would gain benefits from union representation without having to contribute anything.

Or as David Macaray wrote in *The Huffington Report*, “the high court will decide whether a worker is free to enjoy all the wonderful benefits of a labor union without having to pay one penny for any of them.”

Unions have a “duty of fair representation” to all employees in a represented unit. They are legally mandated to represent both members and non-members.

“Without fair share,” said Susan Orlofsky, an administrative

professional at UCSD and an UPTE member, “We’d have to constantly beg for money from those who benefit from the union but don’t pay their dues – like the way public TV does fundraisers,” she said. “That would be a distraction from the important work of bargaining for better pay, pensions and benefits, and organizing new units.”

Decision could lower public workers’ pay

In an October 2015 report, the nonpartisan Economic Policy Institute (see story below) found that the “pay penalty” for being a public employee would *increase* if the plaintiffs in *Friedrichs v. CTA* prevail.

“In other words,” said McDole, “if the Supremes put this through, we’ll all take a hit to our already inadequate paychecks.”

“While we can’t influence the Supreme Court, we can, as a union, be prepared by signing up as many nonmembers into full membership as possible,” says UPTE’s president, Jelger Kalmijn.

Take part by donating a half-day or a week to help in the organizing campaign, or ask for a list of your coworkers. Volunteer to make some calls. Contact your UPTE local about how you can help in the fight against *Friedrichs*.

Who’s behind the case?

The *Friedrichs* case was brought by 10 public school teachers in Orange County, backed by a long list of corporate law firms and right-wing think tanks specializing in anti-union and anti-affirmative action cases, including the Center for Individual Rights, the Pacific Legal Foundation, and the National Right to Work Committee.

“The list of foundations and donor-advised funds supporting the Center for Individual Rights,” writes Adele Stan in the *American Prospect*, “reads like a who’s who of the right’s organized opposition to labor. A number of those funders, unsurprisingly, enjoy the support of Charles and David Koch, the billionaire brothers who are principals in Koch Industries, the second-largest privately held corporation in the U.S.”

Corporate interests have decimated unions in the private sector, where the unionization rate stands

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New study from the Economic Policy Institute If the Supreme Court eliminates “fair share,” public sector employees are likely to lose pay

Only public employees in states with full collective bargaining make as much as their private sector peers, according to a new report from the Economic Policy Institute <http://goo.gl/fNfl6y>.

Their counterparts in “right-to-work” states and states that prohibit collective bargaining earn lower wages and compensation than their private sector peers.

That’s according to a new report, *Eliminating Fair Share Fees and Making Public Employment “Right-to-Work” Would Increase the Pay Penalty for Working in State and Local Government*, by Jeffrey H. Keefe, a professor emeritus in the School of Management and Labor Relations at Rutgers University. It examines the effects of collective bargaining and union security on public employees’ wages and compensation.

The study comes as the Supreme Court prepares to consid-

er *Friedrichs v. California Teachers Association*, which concerns whether public sector employees who receive the benefits of a collective bargaining agreement (wages, benefits, protection against unjust firings, etc.) should be required to pay their “fair share” of the cost of negotiating and protecting those benefits, regardless of whether they belong to the union.

“Even though their education level is higher, state and local government employees earn less than similar private-sector workers,” according to Keefe. “When states provide full collective-bargaining rights and permit the enforcement of provisions that allow unions to collect dues from all employees they represent, regardless of membership, unions can lessen and even eliminate this gap. This makes it possible for state and local governments to attract workers that might otherwise go to the private sector.”

If the Supreme Court over-

turns the requirement, it would essentially make all public employees right-to-work (no fair share), thereby shrinking union membership and lowering wages for local and state government employees. Between 2000 and 2014, 20.3 percent of public employee bargaining units in right-to-work states were “free riders” – employees who the public sector unions were required to represent but who had not joined the union or paid dues.

In non-right-to-work states, meanwhile, only 6.8 percent of bargaining units were non-union members—and they made fair contributions to their representation. The study found that while public-sector employees in right-to-work states suffer a 10 percent public-sector pay penalty, their counterparts in non-right-to-work states suffer only a 1 percent penalty. – *Economic Policy Institute*

Organizing for fairness

UPTE-CWA members joined with members of CWA 9509 in San Diego recently to take part in an Organizing Institute training, learning the skills needed to reach out to their coworkers and build the union.

Participate in CWA's presidential poll

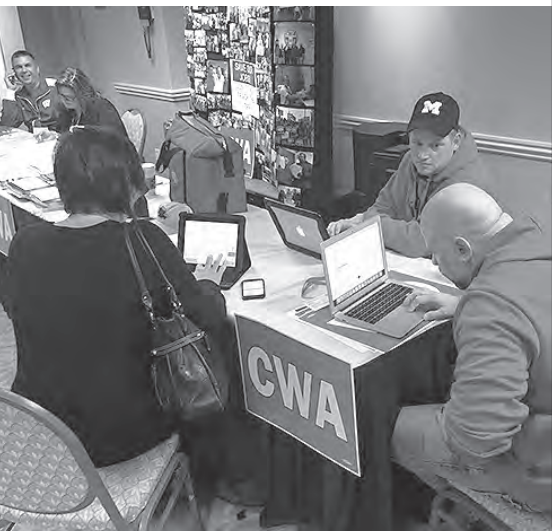
UPTE's national union, the Communications Workers of America, has set up an online poll to decide which, if any, presidential candidates to support.

UPTE-CWA jumped ahead of this process and endorsed Bernie Sanders (D-Vermont). Sanders has created a groundswell of labor support by paying attention to working people's issues. He has also focused on the need to make higher education more affordable.

"Sanders' outspoken positions on a minimum wage increase, growing income inequality, Medicare-for-all and other progressive changes are moving the debate toward topics that affect working people," notes Jelger Kalmijn, UPTE's systemwide president.

"Despite UPTE's early endorsement," Kalmijn adds, "we encourage all members to carefully review the positions of all the candidates." You may participate in the CWA poll if you are a current or retiree member of UPTE (we're CWA Local 9119) – use the last four digits of your UC ID instead of your Social Security number at cwavotes.org.

In Madison, WI, CWA members cast their votes on who (if anyone) CWA should endorse in the US presidential election.



Lydia Phillips, photo

Pay raises for professional and technical employees across the UC system

This fall, across the campuses and medical centers, research (RX) and technical (TX) employees are receiving a 3% raise effective October 1.

This means employees will see the raise in November 1 checks for monthly paid employees and November 4 checks for employees paid bi-weekly.

Raises apply to everyone

This raise was negotiated as part of our current union contract and applies to employees in these bargaining units, and it applies to everyone, including limited appointment, probationary, topped-out and per-diem employees.

Employees at the Lawrence Berkeley National Lab in the TX and RX units are also receiving a 1% across the board raise, augmented by an average of 2.5% raise based on merit and longevity.

Health care professional (HX) members will receive a 2% raise and step increases effective January 1, 2016.

All medical center employees except those at Irvine have also won a lump-sum payment in lieu of a step increase for topped out employees for 2015. The lump-sum will need to be fought for again in 2016.

Historic contract pays off

These raises came as part of the mobilization and negotiations that also protected the UCRS single-tier pension plan.

"Because UPTE's bargaining team negotiated a historic contract safeguarding the single-tier pension in the last round, there will be no changes in the amount we contribute to the plan," said Jelger Kalmijn, a researcher at UCSD and UPTE's systemwide president.

"All UPTE members remain on a single-tier that provides for maximum retirement factor by age 60 instead of the age 65 forced on the non-union new hires," he said.

"That happened because we worked hard, turned out for demonstrations and work actions," said Kalmijn. "UPTE members supported our bargaining team, went on strike with other UC workers, and showed the university that as union workers, we would not settle for the takebacks it wanted."

APs also gain by organizing, even without a contract

This year, UC's 18,000 administrative professionals (APs) organized for a 4% raise, using a petition campaign that gathered reams of supporters' signatures on each campus.

"We won 3% raises, and we don't even have a contract or exclusive representation yet," said Keith Pavlik, an AP at UCSF. "This shows a lot of great organizing power by APs."

However, he adds that because UPTE doesn't yet have the right to bargain for administrative professionals, campuses and even departments have divergent methods for allocating this raise, some more fair than others.

"The only way to change that is to ask our coworkers to sign up to support UPTE," said Pavlik, "so that we will have enough support to petition the Public Employment Relations Board (PERB) to hold a union election."

With such an election, all APs will be able to vote for UPTE representation in future contract negotiations. "That's where we can have a real say in the wages and conditions of our UC employment," Pavlik adds.

Stewards' corner

Need help? Call UPTE!

Problems at work can range from the most complex case imaginable, to a simple matter than can be easily solved. In either case, UPTE can help.

An UPTE member at UCSF recently provided his supervisor notice of his resignation date by email. His supervisor accepted it, but later the department changed the date to a few days earlier, resulting in a likely reduction of benefits.

"The member got the union involved right away," recounts Nino Maida, UPTE Local 7 steward, and the member's originally chosen date was returned, with pay."

Maida adds that "resignation is reserved by contract for the union member, and management has no legal standing to control it."

In this case, the violation was a result of simple lack of training of UCSF Labor Relations staff, but had the union not stepped in, the member would have lost pay and benefits.

Lesson: don't hesitate to call your local UPTE chapter when you have a question or need assistance.

UPTE is a Fox 11



Watching out for workplace safety

California workers won an important legal victory in early October, thanks to a unique state law that protects all workers – and dedicated worker advocates as well as staff at Cal/OSHA (the state’s division of Occupational Safety and Health).

The case involved a warehouse worker’s near-fatal exposure to indoor heat, two different employers (a staffing agency and a warehouse operator), and California’s requirement that every employer have an effective IIPP (Injury and Illness Prevention Program) that addresses the hazards of the job.

California is the only state that has an IIPP requirement, which affects all employers with 10 or more workers. Because of the program, however, even employees in smaller companies have some protection. (See California Labor Code §3203, as well as the university’s plan.)

Heat can be a serious hazard

In 2011, the warehouse worker was overcome by heat while working inside a metal freight container with a temperature around 110 degrees. He reported his illness to the supervisors of both companies, but neither provided any assistance or care. The next day, after going to the hospital on his own, he was diagnosed with heat stroke and had to be hospitalized for three days.

The worker filed a complaint with Cal/OSHA, which investigated and cited both employers “for failing to have an effective IIPP that addressed the hazard of indoor heat.” The employers appealed the citation, and the California Occupational Safety and Health Appeals Board ruled in their favor.

Cal/OSHA held its ground, and asked the board to reconsider the decision. And this is where worker advocates came in. Attorneys at Worksafe <www.worksafe.org> – a small Oakland nonprofit dedicated to protecting workers – filed a brief in support of the sickened worker and represented him before the board, with the help of attorneys

at Santa Clara University’s Alexander Community Law Center and advocates at the Warehouse Worker Resource Center.

In early October 2015, four years after the worker became ill, the board “overturned the judge’s decision, concluding that both employers violated the law by failing to have an effective IIPP addressing indoor heat,” said Worksafe attorneys. “This decision reinforces multi-employer responsibility for ensuring compliance with all Cal/OSHA standards. It also reinforces inspectors’ ability to use the IIPP requirement that employers fix known hazards at their workplace when there is no specific standard.”

California’s heat illness standard – also unique in the nation – applies to outdoor heat, and this worker was sickened indoors. He was protected, however, because of IIPP requirements.

An IIPP in every UC workplace

The University of California requires each department to develop an Injury and Illness Prevention Program, and each campus Environment, Health and Safety office (EH&S) provides templates to create a program that meets state requirements, and assists departments in setting them up. (For example, here’s UC Berkeley’s: <www.ehs.berkeley.edu/workplace-safety/injury-and-illness-prevention-program-iipp-template-and-forms>).

Other campuses have comparable sites. If you want to see your department’s IIPP, or you have any safety concerns, contact your UPTE local for assistance. You may be referred to UPTE’s systemwide Health and Safety Committee, which has worked with EH&S, Worksafe, and two UC programs that have resource libraries and provide training, education, and assistance solving problems concerning occupational and environmental health. – *Joan Lichterman, UPTE’s health and safety director*

Learning to improve your workplace, help your coworkers

UPTE-CWA 9119 members, along with sisters and brothers from our national union, the Communications Workers of America (CWA), came together earlier this year to participate in the union’s annual arbitration training.

Members from UC Berkeley, UCSF, UC Davis, UCLA, Mt. San Jacinto Community College, Lawrence Berkeley National Laboratory, and CWA 9408 attended the training. The facilitators included experienced stewards from around the state.

The training consisted of two days of arbitration basics followed by a mock hearing presided over by an actual, impartial arbitrator. Facilitators and participants spent many hours going over the essential elements of developing a case, the process of arbitration, and procedures for handling witnesses and evidence.

Getting issues resolved

Employee representation in grievances and complaints is often cited as a key benefit

Who joins UPTE?

Some 18,000 administrative professionals (APs) at UC system-wide don’t have a union contract – but they are organizing for one. *Judy de los Santos, an administrative analyst in the Psychiatry Department at UCSD, is one of them. We spoke with her about the campaign.*

What are the major issues for administrative professionals (APs) at UC?

Among the issues are inequity in compensation, the future of our pensions, the exorbitant amount of work that doesn’t equate in pay, even with the rising cost to live in the state of California.

There is definitely a lag in our pay that creates hardship for some, if not all workers. Those are the issues that keep most of us awake at night. Living paycheck to paycheck is a reality that we have to deal with day in, day out.

How can a union help, especially for APs?

Unions have historically been helpful to workers when it comes to negotiating contracts. Within research administration (which I have been a part of for over 14 years), the demand is obvious – our workloads have increased and the expectations to perform are continuously increased.

Centralization of services has further burdened APs, and we have to wear different hats everyday. With union representation, we can be assured there is a contract in place to reward the hard work that is expected of us.

Why did you join UPTE?

Because I believe in community organizing, in preserving the idea that fair-minded individuals can promote the well-being of workers. I believe UPTE, a union that is run by UC employees, has a fully-vested interest in our members.

UC workers deserve union representation to acknowledge our contributions to UC’s research, education and service.



Judy de los Santos.

Lisa Kernish, photo

Anti-union lawsuit threatens public workers’ unions

continued from front

at just over 6 percent. The public sector, by comparison, has maintained a healthy unionization rate averaging 35 to 37 percent over the last three decades.

“That core of strength in the public sector gives national unions a fighting chance to take on big corporations, and to fund organizing campaigns in the private sector,” notes Vanessa Tait, a labor journalist and an UPTE-CWA member. “Anti-union forces have taken aim at the public sector – from Wisconsin, to New Jersey, to California – in hopes of damaging unions as institutions,” she said.

If the Supreme Court decides in favor of the anti-union teachers, writes Moshe Marvit in *In These Times*, “It could represent the most radical shift in labor law in decades,” because public sector unions are among the strongest worker organizations in the US. Losing millions in dues would undermine unions’ financial and institutional stability, as well as their effectiveness in the workplace.

Members Mike Fehr and David Sookne join Cheryl Bacon, 11 television worker on a CWA picket line in Los Angeles.



CSU faculty to strike?

At *Update* press time, faculty at the California State University (CSU) are voting on whether to strike across their 23-campus system.

The California Faculty Association represents 25,000 CSU professors, lecturers, librarians, and others, and is currently in mediation over salaries for 2015-16. The union says the administration has been underfunding staff for years, shifting priorities to executive hiring and relying more heavily on part-time lecturers.

New York faculty may also walk

Meantime, California lawmakers are sending strong letters to Chancellor Timothy White urging him to invest in faculty and students. The legislators' letters call on CSU executives to prioritize classroom funding to best serve students in California.

Faculty at the City University of New York (CUNY) are also considering walking out. That union's president announced recently that a strike authorization vote would be upcoming.

CUNY faculty have been working without a contract for five years. They have held protests, including one outside the CUNY chancellor's New York apartment this fall.

\$37 million settlement in Livermore lawsuit

A settlement was announced this fall in the lawsuit alleging age discrimination and wrongful termination stemming from management's May 2008 layoffs at the Lawrence Livermore National Laboratory (LLNL).

The lawsuit was brought by 130 former employees against Lawrence Livermore National Security, LLC (LLNS), which runs the lab.

In settling the lawsuit, LLNS has agreed to pay 129 of the former employees a total of \$37.25 million in contract damages.

Traumatic layoffs

The Society of Professionals, Scientists and Engineers (SPSE) is the UPTE chapter representing Livermore workers. It has advocated for a settlement for the laid-off employees since the layoffs occurred in 2008, and publicly urged LLNS to settle the lawsuit in May 2013 when five initial plaintiffs won a court judgment against LLNS.

"We commend LLNS and the plaintiffs' attorneys for settling," said Jeff Colvin, SPSE's legislative director.

The attorneys for the plaintiffs, he added, "spent six years pursuing justice for these former employees, facing very long odds against the many more attorneys representing LLNS. We expect this settlement to begin, at long last, to promote the healing process at LLNL, and close the book on the trauma of the May 2008 layoffs."

The problems began in 2007, shortly after LLNS took over the contract for LLNL. Previously, the lab had been managed by UC.

Colvin says LLNS management undertook a number of "unconscionable actions to implement faulty decisions, which in May 2008 culminated in a final outrage, the degrading dismissal of several hundred employees."

"Instead of treating employees selected for layoff with dignity and respect," said Colvin, "loyal and dedicated employees were given one-hour to pack up their belongings while being watched, had their badges confiscated, and then were 'perp-walked' out the gate like criminals."

"The resulting crash in morale at LLNL was deep and profound," he added,



Tens of thousands of low-wage workers have been organizing across the nation for collective bargaining rights and an increase in the minimum wage under the "Fight for 15" banner.

Be there: Fight for 15 supporters call national actions for November 10

The Fight for 15 organizing campaign is on front pages of newspapers from coast to coast. Union activists began making the case 3 years ago that low-wage workers, such as those in fast food, service and domestic work, should get "\$15 and a union."

Activists hope this November 10, a national day of action in the Fight for 15, will bring hundreds of thousands out into the streets. Many organizations, including UPTE-CWA, have endorsed the action (see <www.fightfor15.org>).

UC becomes first university to enact \$15 minimum wage

The University of California system will raise the minimum wage it pays to workers and contractors from \$13 an hour to \$15, over a period of three years, according to reports in the press. As the third largest employer in the state, UC's move is significant. California's minimum wage is \$9 an hour, while the federal minimum wage is \$7.25 an hour.

The Fight for \$15 campaign also got a boost from a new report by UC Berkeley's Labor Center this fall which shows that "low wages cost U.S. taxpayers \$152.8 billion each year in public support for working families."

"As a result," the *New York Times* reported on the study, "taxpayers are providing not only support to the poor but also, in effect, a huge subsidy for employers of low-wage workers, from giants like McDonald's and Walmart to mom-and-pop businesses."

Read the Labor Center's report at <laborcenter.berkeley.edu/the-high-public-cost-of-low-wages>.

Execs get a raise "to keep up with inflation"

At the same time, the UC Board of Regents also voted to give 15 of its highest-paid executives a 3 percent pay increase to keep up with inflation.

This includes five chancellors, the chiefs of the medical centers in San Francisco, San Diego and Davis, the UC provost, general counsel and principal investment strategist, and four other senior managers. The average pay for these not-so-minimum-wage workers will be \$552,000 per year.

blaming "the faulty process for selecting who would be laid off and the unnecessarily degrading treatment of all employees, especially of those laid off."

Management should foot the costs

"The recovery, however, can happen," said Colvin, "only if LLNS does not try to shift the settlement costs onto employees by, for example, cutting programmatic funding and conducting more layoffs because of funding shortfalls."

Instead, SPSE-UPTE urges that senior management – especially those managers responsible for the faulty decision-making – bear the entire cost of the settlement.

"If cuts should become necessary, they should come from the top," added Colvin.

Discussion, debate at UPTE convention

San Diego will host UPTE's 26th annual convention on January 16-18, 2016 at the Handlery Hotel.

The annual meeting will be three days of debate, learning and fun, as members gather to discuss strategy and make decisions about the course of the union for the coming year.

The convention is the highest body of the union. All members are invited to attend. If you'd like to be a voting delegate from your UPTE chapter, you need to run as a candidate.

Contact your campus chapter for more information, or check out the meeting website at <www.upte.org/convention2016>.

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