



# Suit against teachers unions isn't about free speech but silencing members

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**A**ttacks on public employee unions, especially teachers unions, have become a permanent feature of the political landscape. But you'd be hard pressed to find one as incoherent and dishonest as a lawsuit filed last month in federal court in Los Angeles against six California and national teachers unions.

The lawsuit purports to defend the "free speech" rights of its plaintiffs, four California schoolteachers. But its real goal is to silence the collective voice of union members on political and educational issues. Its lesson is simple: If you don't like the decisions your organization or community reaches through the democratic process, just refuse to pay for them.

The plaintiffs in *Bain vs. California Teachers Assn., et al*, say the conditions of union membership coerce them into supporting "political or ideological" viewpoints they don't share. StudentsFirst, an education reform group supported by wealthy hedge fund managers and the Walton family, is bankrolling the lawsuit. StudentsFirst was founded by onetime Washington, D.C., schools chancellor Michelle Rhee, who, before leaving the organization in 2014 [under a cloud](#), established its philosophy that the problem with education is that teachers have too much power and job protection.

*Bain vs. CTA* should be viewed in the context of a long war against public employee unions. Among its landmarks were Gov. Arnold Schwarzenegger's 2005 ballot initiatives to reduce teacher tenure

rights and hamstringing public employee unions' authority to spend member dues on political activity. Both failed.

The lawsuit's prime target is the "agency" or "fair share" fee. Under the law and according to [a 1977 Supreme Court decision](#) known as the Abood case, workers can be assessed non-member fees to cover solely the cost of negotiations and contract enforcement, without being compelled to join the union and support its political activities with their dues. That's the arrangement in California. For decades, union opponents have been trying to get Abood overruled. The Supreme Court is pondering whether to hear one challenge from California, Friedrichs vs. California Teachers Assn. Bain "helps create a favorable political climate for the Supreme Court" to accept the Friedrichs case and overturn Abood, says Joshua Pechthalt, president of the California Federation of Teachers, a defendant in Bain. Its purpose is "pretty clear," he says: "The erosion of unions' ability to be involved with politics."

The lawsuit's promoters don't describe their goals this way, of course. The four Bain plaintiffs — two Los Angeles teachers (including April Bain, the first-named plaintiff) and one each from Richmond and Arcadia — seek the right to refuse to contribute to their unions' political activities, but to do so without giving up their union membership. That sounds like a modest request, but it strikes at the very heart of collective action.

If every union member could pick and choose which positions he or she would pay for, union solidarity would evaporate.

By plying members with benefits that non-members can't enjoy, asserts StudentsFirst's attorney, Joshua Lipshutz, the unions are coercing the plaintiffs into giving up their 1st Amendment rights.

But are union members really deprived of their free speech? The answer is no, not any more than participants in any democratic process when a vote goes against them. American citizens, who influence national policy through the ballot box, can't withhold taxes that pay for policies they disagree with. Nor can members of a volunteer fire department refuse to put out a fire at a house in their district that is flying a banner for a candidate they don't like.

Almost every membership organization has dissenters. The key question is whether those dissenters have a chance to shape its policy their way. That's certainly the case with the unions sued by StudentsFirst: Their political positions are the product of open debate among members, expressed through the election of officers and delegates who gather at conventions to decide which policies to support or oppose and how much to spend to advance their goals. Indeed, one of the Bain plaintiffs, Kiechelle Russell, is a member of the [House of Representatives of United Teachers Los Angeles](#), which sets UTLA policy.

Lipshutz says the plaintiffs aren't objecting to unions' engagement in political activity as such — they "don't take the position that unions shouldn't spend money on political issues," he says. What they're objecting to is that their union dues support positions taken through votes that didn't go their way. Effectively, the plaintiffs are claiming a free-speech right to always be in the majority.

Evidence of that permeates the Bain case. Plaintiff Bhavini Bhakta [told a San Francisco Chronicle editorial writer](#) last month that her view of the union was affected when she went to Sacramento in 2013 to testify in favor of a bill that she thought would have made teacher evaluations more effective. After hearing a CTA lobbyist testify in opposition, she concluded that the union was "fighting for the exact opposite of what I and many other teachers are fighting for." That implies that had the CTA's position matched her own, she would have had no issue with paying for political activities.

Another plaintiff, Clare Sobetski, 23 — a union representative at Richmond High School — says she sees the lawsuit as a blow against union leaders' taking members' views for granted. "There's a diversity of opinion that union leaders may not fully take into account," she told me.

The lawsuit says that the plaintiffs are effectively coerced into supporting political positions taken by their unions because withdrawing from the unions and paying an agency fee means giving up benefits that belong only to members.

These include disability and liability coverage for members and access to cut-rate credit cards and entertainment discounts. The lawsuit calls these "employment-related" benefits, but that's a flagrant distortion aimed at making them appear to be the right of every school employee, union member or not. But these benefits are financed entirely from union dues, not by employer contributions. Just because one has to be a member to enjoy them doesn't mean non-members are the victims of discrimination.

The people behind the lawsuit caricature unions as steamrollers that give members no say over their policies or practices. But the talk of "free speech" is a smoke screen: They're feeding popular prejudice against unions for their own end, which is to get their way in education policy without interference from educators.

The Bain case is a teachable moment, with the lesson drawn from an ancient fable often attributed to Aesop. It's the one about the wolf in sheep's clothing.

*Michael Hiltzik's column appears Sundays and Wednesdays. Read his blog, the Economy Hub, at [latimes.com/business/hiltzik](http://latimes.com/business/hiltzik), reach him at [mhiltzik@latimes.com](mailto:mhiltzik@latimes.com), check out [facebook.com/hiltzik](https://facebook.com/hiltzik) and follow [@hiltzikm](https://twitter.com/hiltzikm) on Twitter.*

