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May 15, 2014

Harris v. Quinn and the Attack on Unions

Source: NYSUT Media Release

Background

The U.S. Supreme Court will rule before the end of its current term (June 30) in *Harris v. Quinn*, a case that could have significant repercussions for NYSUT, its locals and members, and all public sector employees.

In a case funded by the anti-union National Right to Work Legal Defense Foundation, a group of Illinois state employees contends that they cannot be required to pay fees for union services provided to them. These employees argue that even paying for the representational services the union must provide to them under its duty of fair representation - such as negotiating, administering and enforcing the collective bargaining agreement - violates their First Amendment right not to support a union in any way.

The *Harris v. Quinn* case is a direct challenge to a 1977 Supreme Court decision - *Abood v. Detroit Board of Public Education* - in which the justices held that union security clauses are essential for "labor peace." *Abood* determined that public-sector unions could, consistent with the First

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Amendment, collect agency fees - or "fair share fees" - for the services that, by law, they must provide to every member of the bargaining unit, even those who choose not to join the union. *Abood* has been reaffirmed by the Court on several occasions since it was decided more than 35 years ago.

NYSUT and our national affiliates - the American Federation of Teachers and the National Education Association - strongly support the "fair share" principle established in *Abood*. Fair share simply ensures that all represented workers equally share the benefits and the costs of negotiations and contract administration - whether or not they signed a union card. Under fair share or agency fee arrangements, the First Amendment rights of those who choose not to join the union are protected by provisions that allow them to opt out of financially supporting the union's political activities.

Implications of Different Rulings in Harris

NYSUT, the AFT and NEA closely followed *Harris v. Quinn* as it wound its way through the courts. This issue has organizational ramifications for NYSUT and, as a result, numerous departments have been actively preparing for several possible outcomes. Strategy sessions and planning at the regional and headquarters level have focused on a number of "what if" scenarios.

The Supreme Court could uphold *Abood*, meaning fair-share laws remain in place in states such as New York. This is, in our opinion, the only just outcome, and one that union defense teams at the national level have worked tirelessly to promote.

The Supreme Court also could rule very narrowly - deciding, for example, that the plaintiff, Harris, and other in-home health care workers in Illinois are not state employees and cannot be represented by a public sector union for collective bargaining purposes.

In the worst-case scenario, the Supreme Court could reverse *Abood*. This could put the entire public sector under "right to work." Under right to work, those who opt not to join a union would no longer be required to contribute their "fair share" for union services that benefit them. Simply put, workers would have the "right" to benefit from union services without paying a fair share for them. The historic goal of so-called "right to work" is to destroy unions and to turn every worker into an at-will employee who can be fired at any time for any reason -- or no reason.

Legal experts at AFT, NEA and NYSUT are preparing for any eventuality. Regional staff is working with locals to identify agency fee payers and redouble their advocacy for union membership. NYSUT is developing materials for a strong communications campaign, if needed, on the clear benefits of union membership and the unconscionable attacks by the 1 percent on the labor movement.

Local leaders are encouraged to discuss this issue with members and to emphasize the benefits of union membership and solidarity.

Talking Points on Fair Share (Agency Fee)

"The Supreme Court case of *Harris v. Quinn* is another attack by the extreme right wing, which will do anything to destroy the protections that unions have won for working people, including competitive salaries, good health benefits, protections against unjust firings and a voice on the job. The Rev. Martin Luther King Jr. said this about right-to-work laws in 1961: *"In our glorious fight for civil rights, we must guard against being fooled by false slogans, such as 'right to work.' It is a law to rob us of our civil rights and job rights. Its purpose is to destroy labor unions and the freedom of collective bargaining by which unions have improved wages and working conditions of everyone."*

"Fair share is a common-sense way to ensure that every worker who shares the benefits and protections of a contract contributes something toward maintaining it."

"Fair share does not force individuals to join NYSUT or even their local union. Fair share protects the rights of members who decide they do not wish to support the union's political or ideological activities. Fair share simply ensures that all workers share the costs of negotiations and contract administration that all enjoy - whether or not they signed a union card."

"The benefits of belonging to a union are well-documented. Union members earn better pay, enjoy better benefits and have a voice in decision-making in the workplace. By participating in their unions in a true, democratic structure, union members also can have a strong voice in public policy decisions that affect them in the classroom, in their school communities, in health care facilities, on campuses and wherever they work."

According to the Center for American Progress:

- Workers in right-to-work states earn lower wages. Lower wages decrease consumer demand, resulting in fewer jobs. Oklahoma, for example, lost one-third of its manufacturing jobs after the state passed a right-to-work law.
 - Workers in right-to-work states are less likely to have health insurance.
 - Right-to-work laws undermine unions.
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