

Billionaire-backed lawsuit tries to abolish California teacher tenure

By Gabriel Black
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On Monday, a trial began in Los Angeles County Superior Court that could eliminate teacher tenure in California and have national significance. It is part of a national campaign, led by the Obama administration and supported by both Democrats and Republicans, to victimize teachers for the crisis in public education.

Backed by a host of billionaires and politically connected lawyers, the lawsuit's complaint cynically seeks to cloak a right-wing assault on teachers and public education under the mantle of securing the civil rights of students. Beneath the lawsuit's pretense of concern for students is a well-planned initiative to dramatically reduce education costs.

In California, a tenured teacher can be fired for a variety of reasons ranging from "unsatisfactory performance" to "dishonesty" and "unprofessional conduct." However, a teacher has the right to contest his or her firing and be reviewed by a three-person committee consisting of two teachers and a judge.

Beatriz Vergara, et al. v. State of California, launched by *Students Matter* with the backing of corporate executive David Welch, challenges the three California State Statutes that allow for this hearing process. It also targets a statute that gives teachers the right to tenure and another statute requiring that less-experienced teachers be fired first when budget cuts are imposed.

The complaint alleges that "the challenged statutes have a disproportionate adverse effect on minority and economically disadvantaged students." The complaint argues that "ineffective" teachers are disproportionately stationed in the schools of these minority areas with low-income earners. These students, they claim, are denied their civil liberty of having equal protection to an education.

The basic demand of those behind the lawsuit is to

make it easy to fire more-experienced, higher-paid teachers. Los Angeles Unified School District (LAUSD) superintendent John Deasy, one of the first witnesses called, and an ardent supporter of the lawsuit, told the courtroom that firing was a drain on "human capital" and that it was "too expensive." In the years leading up to the 2008 crash, the LAUSD successfully fired only between 3 and 6 teachers each year using the dismissal process. In the 2011-2012 year, the year Deasy took over, that number increased to a record 99 teachers.

Nowhere in the complaint is there any hint of the real causes behind the crisis of public education. In the past few years, California's K-12 annual budget has been cut by about \$18 billion. Thousands of schoolteachers have been laid off in California, and hundreds of thousands nation-wide. Throughout the country, teachers face classroom sizes of 50 or more students per teacher, with inadequate textbooks, supplies, and proper cooling and heating systems.

As a report on California education from the conservative RAND corporation states, in the early 1970s "California's public schools were considered to be among the nation's best." While the complaint makes much of California's low educational ranking compared to other states, it does not mention that Proposition 13, passed in 1978, dramatically reduced funding to California schools, leading to this downward trajectory.

Students Matter is a non-profit organization founded in 2012. According to its web site, the goal of the organization is to sponsor "impact litigation to promote access to quality public education." The founder is entrepreneur David Welch of Silicon Valley, who is president and cofounder of Infinera, a company that makes optical networking gear for international

telecommunication companies.

The actual plaintiffs in the lawsuit are nine public-school students from California, one who was only seven years old when the case was filed in 2012. These young people are being exploited by multimillionaire investors and corporate executives who have flocked to charter schools and the budding industry of “education reform.”

Bloomberg reports that the case, via the nonprofit, is funded by two of the most powerful foundations in the US, the Broad Foundation and the Walton Family Foundation. Insurance mogul Eli Broad and Walmart’s Walton family are among the world’s 1,426 billionaires. *Bloomberg* writes that they, alongside Bill Gates, “have been pushing for public schools to be run more like business.” Charter schools “have been one of their favorite causes.”

Theodore Olson and Theodore Boultrous, the two lead lawyers for *Students Matter*, are no less influential than the organization’s financiers. Boultrous successfully defended Walmart against a class action lawsuit representing 1 million female workers who accused the company of systematically denying raises and promotions to them. Olson served as the US solicitor general from 2001-2004 under George W. Bush and was ranked by *Time* magazine in 2010 as one of the 100 most influential people in the world. Both recently worked together to defeat statutes against gay marriage in California.

In addition to these high-profile players, the case has received support from other major promoters of charter schools. The *Washington Post* writes that Michelle Rhee is supporting the lawsuit. Rhee is the former Washington, D.C., school chancellor and star of the pseudo-documentary *Waiting for Superman*. Rhee, a darling of big business and both political parties, eliminated tenure in D.C. and runs *Students First*, which seeks to extend the attack on teachers across the country.

Opposing the lawsuit is an equally cynical and hypocritical group including Democratic governor Jerry Brown, the California Teachers Association and the California Federation of Teachers.

The teacher unions have given their full support to Brown, who has cut billions of dollars from education and has no plans of substantively restoring that money. Brown, far from being an opponent of the privatization

of education, has started several charter schools himself and has passed budget proposals that strongly support the spread of charter schools. This year is an election year for Brown, and he will be backed heavily by the unions. The California Teachers Association has a full article on its web site on how the governor has acted in line with its own positions.

Last year, both unions supported a bill that was passed by the State Assembly, AB 375. The bill truncated the teacher dismissal process, corroding a teachers’ right to due process. However, Brown vetoed the bill because, according to LAUSD’s chief lobbyist, he wanted “to make sure that all the stakeholders are on board.” Unlike AB 375, the litigation efforts by *Students Matter* circumnavigate the formal political process and the role of the unions in imposing the attack on public education.

The lawsuit is part of a nationwide assault on the right of students to a high-quality education and teachers to a secure well-paying job. The lead nationally has been taken by the Obama administration, again with the backing of the unions. Through his “Race to the Top” program, Obama has enthusiastically backed the expansion of charter schools and the introduction of other reforms, such as merit pay and testing, aimed at victimizing teachers.

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