

California Teachers Association: Excessive Power and Negative Impact on Education

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Abstract

This essay poses the question, of whether the California Teachers Association has lowered the quality of K-12 education with its substantial and growing influence on the California state government.

This Essay will review:

- Origins and Key Legislation of the California Teachers Association
- The Power of the California Teachers Association
- What is High Quality Education?
- How the CTA is Impacting Education
- Challenged by *Vergara v. California Case*
- Conclusion

The California Teachers Association has risen to power as one of the powerful unions in the California Legislature. The consequences of the various policy initiatives will be evaluated to determine its effect on California Public Education. Although much of the policy initiatives have been pushed to positively impact public education, there are some questionable statutes in the California Education Code. Because the Ed Code is the foundation for local teachers unions collective bargaining, there are some aspects of educational policy that have been implemented statewide. The argument for the excess of the CTA's influence, is shown through the illogical statutes regarding the evaluation period for permanent employment, the uber due process in firing a teacher, and the Last In First-Out methodology of laying off teachers. Although it may be slightly less burdensome on administrators and teachers to have a short evaluation period, the permanent employment status carries too much weight for the assessment to be so short. When some of the underperforming teachers pass this evaluation, it is incredibly difficult to fire a teacher. With less than 3 teachers fired per year and the largest population in the United States, it

is easy to see why bad teachers remain. Even when there is substantial evidence to show that a teacher is ineffective, it is simply more cost effective to not try and fire a teacher. Although teachers should be given a chance to evolve into a better educator and due process should not be eliminated, the legal requirements for firing a teacher should be more streamlined to make it a viable option. The Last in First-Out norm for firing teachers is absurd in that it discourages new teachers and gives an unnecessary level of security based on how long a teacher has worked, instead of the skill of him or her. The *Vergara v. California Case* confirms that these statutes do not provide an equitable opportunity of education, especially to ethnic minority districts.

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California Teachers Association: Excessive Power and Negative Impact on Education

Introduction

State laws, and teacher tenure specifically, impact student's pursuit of quality education. Ever since its founding in 1863, the California Teachers Association (CTA) has grown in strength from both an increase in collective bargaining rights and membership in the union. The union has won many court cases and passed numerous pieces of legislation that have upheld its supremacy and precedence. Although it is the costliest lobbying organization in California politics, the CTA has recently been tested by the *Vergara v. California (2014)* case which challenged the long standing supremacy of the California Teachers Association (CTA) raising questions about teacher's unions as educational stakeholders and its effect on quality of education.

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The essay will provide evidence to support the argument that the California Teacher's Union has negatively acquiesced too much influence, and as a result of its abuse power has poorly impacted public school education in the state of California.

Origins and Key Legislation of the California Teachers Association

In this section, the essay will cover the growth of the CTA in its membership due to an increase in public education, basic rights of teachers teachers unions, and foundation and increase of the collective bargaining rights.

The growth of the CTA was one that has steadily increased since its inception and was mainly due to an increased enrollment in public schools. Much of this legislation was viewed as positive humanitarian causes that would help educate the public as a whole, but at the same time it would increase the influence of the CTA. During the late 19th century the majority of educational institutions were first and foremost religious institutions; however, from 1878-1879 the CTA lobbied to have eliminate funding to sectarian religious institutions.¹ Although private religious institutions were and still are in place, the enrollment of private religious schools has decreased substantially² because families view the economic viability of private schools to be lacking, especially within lower class families. Consequently the legislation resulted in a massive influx of funding towards public school education by the state government. Another similar piece of legislation was pushed in the state in 1915, when the CTA lobbied the California State Legislature to ban the employment of child labor and other rights for children. Because the children were not allowed to be sent off to work for miniscule wages, they could now go to school. Although the child labor practices were not as harsh nor plentiful as that of the Northeastern United States, the outlawing of child labor opened up another large segment of the public that was going to be educated by public schools. These children in particular often enrolled in the public institutions because the families who would previously have exploited child labor usually did not have enough money to put them into private religious school. From its humble beginnings as a collection of about 100 teachers that gathered in San Francisco, the CTA has currently accrued 325,000 members³ and is affiliated with the 3.2 million members of the National Education Association⁴.

Although the CTA had increased the membership of the union increased the union substantially, the unions in the United States including California had relatively little power and influence⁵, but this began to extensively change in the early 20th century. The CTA successfully passed legislation in 1912 that established due process of law; instead of being bullied around by school administrators, teachers finally had access to a fair hearing. This allowed teachers to be treated as equals rather than as drones of the school districts. Another piece of fundamental legislation was the passage of the California State Teachers' Retirement System⁶ that was passed in 1913. CALSTRS' assets originate from an amalgamation of sources. Currently, teachers take 8% of their monthly paycheck, while employers put down 8.25% to put into the retirement funds and

¹ "About CTA."

² It has decreased from 10.0% in 1995 to 7.9 % in 2008 and is projected to gradually decrease further

³ the largest political lobbying group in the state of California.

⁴ Otherwise known as the NEA is the largest professional organization

⁵ The unions in the United States had very weak footing in its early existence primarily because of the Protestant work ethic. In essence the work ethic claimed that hard work will provide for success. Additionally early settlers were mostly opposed to guilds and individualistic.

⁶ Also known as CALSTRS

the government contributes roughly 10% of the total fund. Therefore, the retirement system established a concrete structure that would aid in strengthening the teachers, employers, and government.

The catalyst for this change began with the National Labor Relations Act of 1935⁷ which was a US labor law that guaranteed the right of trade unions to collective bargaining and go on strike if necessary. However, the law did not apply to the public sector from federal to local government workers. Various other states and their government workers began a push for collective bargaining. Wisconsin was the first state to pass the public employee bargaining law in 1959. As a result of the newfound precedence in the unionization of public workers, the American Federation of Teachers led a surge of unionization within urban cities such as New York, Denver, Chicago, and more. During this period of change, the California Legislature attempted to appease the CTA by passing the Winton Act in 1965, allowing teachers to negotiate through “meet and confer” with the school board administration. Unfortunately, the school board maintained a disproportionate amount of power in negotiations which meant that the demands of the teachers were largely being ignored. The CTA in response to a hospitable climate of change and frustration, demanded a change in policy through strikes and teacher organizing. In 1975 they were successful in passing the Educational Employment Act⁸ which gave K-14 educators⁹ the right of collective bargaining and within a year and a half the union certification was up to 60% of the nearly 1000 CTA/NEA school districts. This bill was signed by Gov. Jerry Brown¹⁰ and established the Public Employment Relations Board¹¹, an administrative organization that acts as a quasi-judicial agency charged with administering the collective bargaining statutes for employees of California public schools. PERB is one of the essential mediators between the state and California teachers. The union contract must be ratified by its respective chapter and the school board; however, if the union contract cannot be agreed on, the teachers are allowed to strike once a neutral fact-finder report is filed. Therefore, this protected ability to go on strike has led to over controversial strikes 170 California public school strikes; teachers claim that they are simply exercising their collective bargaining rights to obtain reasonable compensation, while others claim that the teachers are exploiting the system and at the same time denying students the right to a free public education. Many of these strikes were successful in garnering more compensation for the teachers union, but at what costs? In these strikes the students were hurt the most by missing valuable instruction time.

The Power of the California Teachers Association

⁷ Also known as the Wagner Act

⁸ Also known as the Rodda Act

⁹ From kindergarten through community college teachers.

¹⁰ Democrats viewed unions more favorably than Republicans did during this time period.

¹¹ Also known as PERB

The intent and goals of the CTA is one that has drastically changed since its beginnings. This is mostly due to the organization adapting with the changing currents. It simply does not make sense for the CTA to maintain the same agenda that was fostered over one hundred years ago, yet some critics believe that the CTA has ventured too far off its path. As stated in the *Origins of the California Teachers Association* the organization's original main objective was to provide universal education for all California children. This simple yet noble notion has mostly been eliminated from the agenda of today's CTA because this goal has already accomplished, albeit the quality of education depending on the school district is one that remains very diverse. Now the quintessential aspect of the CTA's lobbying is the financial policy and funding for the teachers. In this section the power of the CTA over member teachers, scare tactics, and money spent on lobbying will be covered.

With over 170 strikes, the CTA has boasted its ability to go on strike in order to create immediate change. This is a common tactic used by labor unions when negotiations seem to have gone sour. However, in order to be successful, there are two essential ingredients for a strike. First is that a strike needs to cause damage to the entities or people involved in making the policies that directly affect the strikers. This most common tactic in strikes for the private sector is to financially cripple the leaders. The process is relatively simple, and as long as the union withholds its labor, the company or overarching institution cannot run as an effective business or organization. As a union of public employees, the CTA affiliated union strike would cause damage to the approval ratings of the government elected officials such as school board officials for causing an absence in the education of children; an unfortunate collateral damage resulting from the conflict. This directly ties into the second thing that a successful strike must have, a large war chest. In order to survive not making any income during the strike, there needs to be a substantial pot of money in case the strike runs for an extended period of time. This is another strength of the CTA; the union annual income has been hovering near \$175 million during the 2005-2010 period. Consequently, the teachers union has a virtually unlimited supply of support during unemployment to pressure policy makers. This was demonstrated in the most recent success of the CTA when the Hayward Education Society¹² received an 11% raise as a result of a ten day teachers strike.

Although teacher strikes proved to be an adequate tool in promoting their agenda, the preferred method of inciting transformation in policy is lobbying. Though teacher strikes are highly effective when dealing with a singular school district, it is not logistically reasonable to attempt a statewide teacher strike. Therefore, in order to sway the state legislature and introduce a sweeping policy, the CTA has invested an extremely large sum of capital into the lobbying of the California State Legislature. The CTA has quickly become the largest lobbying spender in

¹² It like many other chapters related to school districts are affiliates of the CTA

Sacramento.¹³ The organization spent more than 200 million dollars on lobbying.¹⁴ The breakdown of spending indicates that the CTA focuses on educating and lobbying voters more than lobbying officials. It overwhelmingly allocates its resources in ballot measures, in the form of advertisements and campaigns focused on the voters. Because California implements direct participation in policy ratification, much of the money spent in lobbying is directed towards the public. Due to the massive lobbying capabilities of the CTA, the airwaves have largely been dominated by the CTA whenever a ratification vote for a referendum takes place. As a historically liberal state, California has often approved of the expansion of funding and influence for educators, and the union has consequently passed various propositions that have guaranteed funding through proposition 98 which would provide a minimum amount of money for the schools.

What is High Quality Education?

A high quality of education is a topic that is rather subjective; some policy makers believe that high quality education is one that allows students to do well on standardized tests while others think that there are certain aspects of education that are intangible. Nevertheless, the educational policy in California is constantly evolving. Therefore, it is logical to use quantitative measures that are readily available in order to assess what a high quality of education is. The parameters for a high quality of education in this paper will be the graduation rates, standardized test scores, and percentage of college bound seniors. Of course, the higher the numbers for each of the criteria, higher the quality of education an institution possesses. It can be assumed that there is a correlation with each of the three datum, so a high graduation rate will lead to higher California Standardized Test Scores.¹⁵

How the CTA is Impacting Public Education

The California Education Code (Ed Code) is a collection of state laws that provide the rights classified to California public education employees. The code acts as the foundation when for its collective bargaining agreements. The California Education Code is one that is extremely long and complex, so a gradual adjustment or addition to the code is often administered every year. As a historically liberal state, California has often approved of the expansion of funding and influence for educators. In hopes of providing high quality education, many Californian's have been voting in favor of teachers. The goal of the CTA according to their own website is to "...to protect and promote the wellbeing of its members; to improve the conditions of teaching and learning; to advance the cause of free, universal, and quality public education; to ensure that the

¹³ This includes lobbying from private and public industry, including Chevron and AT&T.

¹⁴ "California Teachers Association."

¹⁵ This is a statewide standardized testing initiative that started from the No Child Left Behind Policy of the Bush administration.

human dignity and civil rights of all children and youth are protected; and to secure a more just, equitable, and democratic society” (cta.org).

It can then be inferred that the CTA is a proponent to smaller classrooms, higher test scores, and higher graduation rates. The cursory solution to large classrooms is better funding. This is relatively easy to accomplish because the situation is derived from quantitative data. The CTA cannot be faulted for not trying to lower the classroom sizes because increased funding is almost always pursued in part to absolve the issue.

However, achieving higher test scores and higher graduation rates is much harder to accomplish. This is due to the rather subjective nature of hiring good teachers. These teachers must be able to keep students interested and motivated, while at the same time instilling a wide scope of knowledge.¹⁶ This is an area in which the CTA and its policies have failed. There will always be effective and ineffective teachers, yet the policy of the CTA does not adequately deal with the issue of ineffective teachers.¹⁷ It is quite evident that there are a significant number of ineffective teachers who do not seem to be properly retrained. Although the CTA cites that underfunding is the main source of this problem, it simply avoiding the true reason to why there is such a disproportionate quantity of unskilled teachers. The poorly performing teachers according to standardized tests and other measures are often passed around within a school district. This is the equivalent to dropping some trash in a bedroom and sweeping it to a corner. Although it may seem on its superficial surface to work, it simply masks the issue that there is still trash on the floor. This can only occur because it is so difficult for the administration to fire a poorly performing teacher. Most contradictory to the goals of the California Teachers Association is that some of the laws and statutes that it pushed have exacerbated the inequality of education for poor and/or ethnic minority students. Although the CTA says that it promotes students and youth of a more equitable society, its policies hurt those that are underprivileged the most because an even higher proportion of ineffective teachers are present in these areas.

The three primary causes for this sharp decline in effective teachers can be attributed largely to the permanent employment statute, dismissal statutes, and “Last in, First-Out layoff statute”. The permanent employment statute is one of the key areas of weakness for evaluating if a teacher is effective because of the short evaluation period of less than 16 months. This short assessment does not let administrators make informed decisions on whether the teacher should gain permanent employment status. This is extremely important because it is so difficult to fire ineffective teachers. The dismissal statutes make it economically irrational to try and fire a poorly performing teacher because of the extensive legal documentation. This is evident as only

¹⁶ This is increasingly important due to the implementation of Common Core.

¹⁷ "Teachers' Job Security More Important than Kids' Futures?"

a ridiculously small percent of teachers are fired each year.¹⁸ The only times a substantial number of teachers lose their jobs is when school funding is too low. In this instance the teachers who have taught the shortest amount of time are fired first. It comes to no surprise that some young effective teachers lose their jobs to older teachers who are not as good. Broadly speaking the CTA has allowed teachers to have very little to motivation to become effective at their job. The methodology of hiring and firing teachers is one that diminishes the overall quality of teachers and is harmful to both teachers and students.¹⁹ The disadvantaged socioeconomic groups simply accumulate a larger number of ineffective teachers as poor school districts are essentially the corner of the room. Though funding is also to blame, the Ed Code is a systematic failure in providing an equitable education. The listed policies in the California Educational Code are large factors as to why the graduation rate, standardized test scores, and percentage of college bound seniors are so much lower in the impoverished school districts.

Challenged by *Vergara v. California*

The class action suit of *Vergara v. California* case was ruled in favor of Vergara on August 28, 2014 by the California Superior Court of Los Angeles. In the sixteen page ruling, the Honorable Judge Rolf M. Treu struck down five provisions of the California Ed Code as being unconstitutional because “Substantial evidence presented makes it clear to this Court that the Challenged Statutes disproportionately affect poor and/or minority students.” (p. 15:3-4). Thus the court ruled similarly to how the supreme court did in the *Brown v. Board of Education* case. The Warren Court claimed that the separate but equal educational facilities and institutions were inherently unequal. The institutional failure to promote equal education was seen most clearly when comparing the public education opportunities of black children to white children.²⁰ It was quite apparent that the black children were at a disadvantage when it came to things such as textbooks, lab equipment, etc. The landmark Supreme Court Case reversed *Plessy v. Ferguson*. Thus the *Vergara v. California* case has established that the various permanent employment, dismissal, and “Last in, First-Out layoff” statutes have systematically disadvantaged minorities and the poor.²¹

The court viewed the permanent employment statutes to heavily undermine the effectiveness of both teachers and students.²² Although the establishment of tenure may not necessarily be bad, the methods of achieving it are cursory at best. The dismissal statutes were also overturned because the due process of firing a teacher is overwhelming. The process once again is not enjoyable for either the teachers or the school board. The arduously long and repetitive process

¹⁸ According to 2011 numbers only .0008 percent of teachers are fired yearly.

¹⁹ Martinez, Michael. "U.S. Schools Chief Calls California Ruling 'a Mandate' to Fix Tenure, Firing Laws - CNN.com."

²⁰ "California Teachers Unions Lose Big in Court."

²¹ The Last In, First-Out layoff statutes are abbreviated to LIFO.

²² "Vergara v. California Case Summary."

equates to a bleak environment in which the school board is highly unlikely to take disciplinary action or pursue it at all.²³ Consequently, the ineffective proportion of teachers have almost zero risk of losing their job due to the “uber due process”.²⁴ The LIFO statute is one that is rare in that the California maintain seniority as either the sole factor or one factor that must be considered. It is inherently illogical that this sort of firing system exists in an arena that should be promoting newer and motivated teachers to gradually replace the lemons.²⁵ The culmination of the aforementioned statutes point to a systematic failure of addressing ineffective teachers. Those that are granted permanent employment statuses do not go through a thorough enough evaluation period. Some ineffective teachers will inevitably obtain this status due to cursory nature of the state; when these poorly performing teachers gain permanent employment status, it is extremely difficult for school administrators to justifiably fire them; and if the ineffective teacher happens to have worked for a long enough time period, the newer and potentially better teachers will be laid off first.

Conclusion

Superior Court concluded that all the challenged statutes are deemed unconstitutional, and all injunctions prohibiting these statutes are ordered stayed pending appellate review. Although there are some teachers and administrators who promote this new change, the CTA is appealing the case. Because the policy agenda is set through democratic means in which chapters vote for representatives, it can be assumed that a sizable proportion of the CTA is incredibly persistent on maintaining the status quo. Instead of having the court decision as a wake up call, the CTA is strongly opposing the decision. By pursuing antiquated policy and protecting some aspects of irrational California Education Code, the CTA fails to act as an engine of progress and change that is so prominent in the ‘blue’ state. Thus free public education, the paragon of social mobility, is heavily diminished by the CTA’s stance on the issue. Granted it is difficult to make true reform within one’s own institution, but the ability to pass the statutes and overwhelming desire to keep these them are clear indicators that the California Teachers Association is an union with positive intent that is contradicted by several detrimental policies. Though the CTA has maintained a significant array of influence in California politics through its massive lobbying efforts, it is the courts, not the legislature, which justly protects the rights of minorities and the poor to pursue an equitable education.

²³ It takes approximately 250,000 to 450,000 dollars per performance-based dismissal according to L.A.U.S.D Superintendent Dr. John Deasy.

²⁴ Vergara v. California decision (p 12:2-3)

²⁵ Lemons are synonymous to ineffective teachers.

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