



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and
college districts
throughout the state.*

5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclscal.org
www.sclscal.org

General Counsel
Carl D. Corbin

Attorneys
Monica D. Batanero
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Mia N. Robertshaw
Loren W. Soukup
Patrick C. Wilson
Frank Zotter, Jr.

Of Counsel
Robert J. Henry
Janna L. Lambert
Margaret M. Merchat
Virginia A. Riegel

LEGAL UPDATE

April 5, 2016

To: Superintendents, Member School Districts (K-12)

**From: Steven P. Reiner 
Assistant General Counsel**

**Subject: Supreme Court Decision in *Friedrichs* Allows Unions to Collect Fees
Memo No. 09-2016**

The U.S. Supreme Court announced a 4-4 split decision that upholds the right of unions to collect fees from non-union employees to cover the costs of collective bargaining. The court issued a one-sentence opinion in *Friedrichs v. California Teachers Association* that affirmed the 9th Circuit Court of Appeals ruling and requires objecting teachers to pay the union fees. The decision means there will be no change to current California law.

The lawsuit was brought by several non-union teachers who challenged California law requiring non-union employees to pay a “fair share service fee” or “agency fee” to cover the cost of a union’s collective bargaining expenses.

Under the law, a union can become the exclusive bargaining representative for public school employees with the support of a majority of the employees. After the union becomes the exclusive bargaining representative, employees are required to either join the union or pay an agency fee as a condition of continued employment. Agency fees are limited to those expenses related to collective bargaining. Unions must annually estimate what portions of their expenses are related to the costs of collective bargaining and those that are not, such as campaign spending. Notice of this finding must then be sent to all non-union employees. If non-union employees do not want to pay those expenses not related to collective bargaining, they must notify the union in order to receive a rebate or fee reduction for that year. This is known as an “opt-out” procedure.

Plaintiffs in *Friedrichs* claimed that requiring them to undergo an “opt-out” procedure to avoid making financial contributions in support of campaign spending violated their right to freedom of speech and association under the First and Fourteenth Amendments of the U.S. Constitution.



Legal experts believed in January when the case was argued that the plaintiffs in *Friedrichs* would prevail. However, the unexpected death of Justice Antonin Scalia resulted in an equally divided court that affirmed the lower court ruling.

For now, the ruling upholds California law and allows unions to continue charging non-union employees fees related to collective bargaining. Future challenges to the law may occur after the confirmation of Justice Scalia's replacement to the court or through legislative action.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

© 2016 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute this Legal Update in its entirety for the client's own non-commercial purposes.