

## CTA Board Report District D and District E

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### Legislation Report

AB 1505: Great news! The press release is below:

The California Teachers Association (CTA), the California Federation of Teachers (CFT), the California School Employees Association (CSEA) and the California Labor Federation issued this statement Wednesday following months of deliberations regarding legislation that would make common-sense changes to laws governing charter schools—laws that have negatively impacted students in neighborhood public schools.

“As educators, classified personnel and partners who work daily with students in California’s neighborhood public schools, we see and experience the challenges they face every day. They are the 6.1 million reasons why we’ve been fiercely advocating for AB 1505 by Assembly Member Patrick O’Donnell. After months of honest and difficult conversations, we have made significant progress on behalf of our students.

“All along, our goals have included ensuring locally-elected school board members have the discretion to make decisions to meet the needs of local students; allowing them to consider the fiscal impact of charter petitions, including the potential impact to programs and services currently provided to students; ensuring every student has a credentialed teacher in the classroom;

and holding all taxpayer-funded public schools to the same high standards. The groundswell of action and support for this bill over the last several months underscores the sense of urgency in our communities to enact these much-needed changes to laws governing charter schools. We believe the measure California lawmakers will vote on will lead to a more equitable learning environment for students in California’s neighborhood public schools. “We profoundly appreciate Assembly Member O’Donnell’s hard work on this bill and Gov. Gavin Newsom’s leadership and commitment to fixing the flawed decades-old laws. We look forward to working with lawmakers in the next two weeks to ensure AB 1505 is sent to the governor’s office for his signature.”

AB 1507 (Support), Assembly Member Christy Smith (AD 38) — Charter schools: location: resource center: Deletes the authority of a charter school or nonclassroom-based charter school resource center to be located outside of the jurisdiction or geographic boundaries of the chartering school district. We are pushing hard to get this bill passed in the senate, back to the assemble to pass with the amendments, and the to the Governor for his signature.

AB 331 (Support), Assembly Member Jose Medina (AD 61) — Pupil instruction: high school graduation requirements: ethnic studies: Adds the completion of a one-semester course in ethnic studies based on model curriculum developed by the Instructional Quality Commission to statewide high school graduation requirements in the 2024-2025 school year; authorizes, subject to the course offerings of a local educational agency, including a charter school, a student to satisfy the ethnic studies course requirement by completing either a stand-

alone semester or year-long ethnic studies course or an ethnic studies course taught as a course in another subject, including but not limited to, subjects required for graduation from high school; disallows integrated courses teaching ethnic studies to fulfill a graduation requirement unless the primary content of the course is ethnic studies content; requires students accrue credit for coursework in the subject the course is offered, including, if applicable, credit towards satisfying a course required for graduation from high school; and authorizes local educational agencies to require a full-year course in ethnic studies at their discretion. Status: Senate Appropriations Suspense File; HEARING DATE: No hearing date set.

## **Political Report**

### **Schools and Communities First Initiative**

On Tuesday, August 14, "The California Schools and Local Communities Funding Act of 2020" filed for circulating title and summary, starting the process of replacing the previously qualified The California Schools and Local Communities Funding Act of 2018, commonly referred to as Schools and Communities First. The timeline for the initiative is as follows:

- Thursday, September 12: Last day for public comment on the initiative
- Tuesday, September 17: Last day to submit amendments on the initiative
- Wednesday, October 2: Legislative Analyst Office's fiscal estimate is released
- Thursday, October 17: Circulating title and summary is issued

After circulating title and summary are issued, 997,139 valid signatures are required to qualify the initiative constitutional amendment. The revisions to the measure include: changes to funding for Basic Aid School Districts, changes to implementation dates, expanded small business

exceptions, and amended phase in and assessor provisions. Proponents estimate that the ballot measure will generate \$11 billion in new revenues, annually.

## LEGAL REPORT

### CTA CASES

1. Update on NEA and CTA Victory Over Betsy DeVos. NEA, et al., v. Betsy DeVos, et al., United States District Court, N. D. Cal., Case No. 18-CV05173-LB.

On June 24, 2019, the U. S. Department of Education appealed the favorable judgment that CTA and NEA obtained in their federal lawsuit challenging the DeVos Administration's rollback of an Obama-era regulation creating protections for online students. Then, on July 22, 2019, the Department notified the public that it was implementing the regulation as required by the court. At the same time, it surprised the educational community by declaring that, because California did not have a system in place for processing student complaints against online universities, California students pursuing online coursework would no longer be eligible for federal student aid, including federal student loans and Pell Grants.

A prompt response from both CTA and the governor's office resulted in a complaint system quickly being implemented. On August 2, 2019, the Department relented and confirmed that no California students would lose their federal aid. The Department subsequently withdrew its appeal, bringing the case to a close and leaving the student protections in place.

### CASES OF INTEREST

## 1. UTLA Defeats Alliance Charter Network's Malicious Prosecution Lawsuit.

Alliance for College-Ready Public Schools, Inc. v. United Teachers

Los Angeles. Case No: 19STCV06955

On March 6, 2019, UTLA was served with a complaint for malicious prosecution from Alliance College-Ready Public Schools ("Alliance"). The complaint

alleged that UTLA maliciously pursued Public Employment Relations Board ( PERB ) charges regarding allegedly unlawful anti-union communications made by nea [www.cta.org](http://www.cta.org)

Alliance during UTLA's organizing campaign. Alliance alleged that UTLA had filed the charges only because Alliance would not voluntarily agree to a neutrality agreement during the organizing campaign. PERB had issued an unfair practice

complaint on the charges, and Alliance admitted the communications were distributed, but the ALJ found that that the communications were not sufficiently coercive to constitute interference in employees' right to organize. The Union did not take exception to that portion of the decision, in part because in other areas regarding retaliation against a teacher, the Union had prevailed and did not want those findings disturbed.

On April 2, 2019 UTLA filed what is known as an "anti-SLAPP" motion in response to the suit. SLAPP stands for "Strategic Lawsuit Against Public Participation, " and the anti-SLAPP statute is designed so that defendants can get lawsuits dismissed quickly if it was filed to intimidate the defendant from using their protected rights to petition government agencies or to engage in free speech.

The statute also provides that defendants who win anti-SLAPP motions are entitled to recover attorneys' fees and costs associated with defending against the lawsuit. In this case, UTLA argued that the malicious prosecution case was designed to intimidate UTLA out of filing PERB charges that were pursued to protect employees (and the Union) during an organizing campaign. In its motion, the Union argued that there was probable cause to pursue the charges, that there was no malicious intent, and that the issue was one for PERB to rule on in the first instance-not California state courts. PERB attorneys appeared at the hearing and supported UTLA, but PERB did not intervene in the case.

On July 22, UTLA prevailed on its motion and the judge found that Alliance was unlikely to succeed in making a showing that UTLA had any malicious intent when it filed charges. Unfortunately, the judge's ruling did not find that PERB had exclusive jurisdiction over the claim and-mistakenly-finds that the charges lacked probable cause. This finding is especially problematic as PERB's issuance of

complaint on the charges demonstrates that the expert agency in labor relations determined UTLA had presented a prima facie case that Alliance had interfered with employee rights by distributing the communications. Alliance has yet to appeal (though it still may), and UTLA's motion seeking attorneys' fees and costs will likely be filed in the coming weeks.

In general, the malicious prosecution lawsuit that was filed in response to PERB charges is an aggressive legal tactic, especially because PERB drafted and issued the complaint. The Union's success at this early stage of litigation is likely to discourage such tactics in the future, particularly as Alliance will be



required to pay UTLA's fees and costs (absent a successful appeal). UTLA was represented by the GLS law firm Bush Gottlieb, who were provided with assistance by the CTA Legal Department.

2. District Court Dismisses Post-Janus Claims Against UTLA. *Seager v. UTLA*, C. D. Cal., Case No. CV-00469-JLS).

Plaintiff Irene Seager sued UTLA and Los Angeles Unified School District Superintendent Austin Beutner to avoid enforcement of her voluntarily signed maintenance of dues agreement ("Agreement").

In that Agreement she agreed to join UTLA, to pay dues, and that revocation of the authorization could occur only within a specified window-period.

Seager claimed that enforcement of the Agreement violates her First Amendment rights. She also challenged California Education Code section 45060

(a), which provides that "[a]ny revocation of an authorization shall be in writing and shall be effective provided the revocation complies with the terms of the written authorization" and she sought prospective relief from enforcement of 45060 (a) from further dues deductions and retrospective relief for return of the deductions already taken.

On August 14, 2019 Judge Josephine L. Staton dismissed prospective claims against enforcement of Section 45060 as being moot because UTLA had processed her revocation of the ongoing dues authorization. In doing so, the Court relied on its prior decision in *Babb v. CTA, et. al.*, 375 F. Supp. 3d 857 (C. D. Cal. 2019). As to Plaintiffs First Amendment claim, the Court rejected the claim that her voluntary decision to join the UTLA should be viewed as involuntary because when she signed the Agreement, in April 2018, she did not know that Janus would change the labor

law as to the rights of non-members. The Court explained that such claims have been rejected: "This Court, however has already rejected a similar claim, noting that union members 'voluntarily chose to pay membership dues in exchange for certain benefits, and 'the fact that plaintiffs would not have opted to pay union membership fees if Janus had been the law at the time of their decision does not mean their decision was therefore coerced. " Citing *Babb, supra*, (quoting *Crockett v. NEA-Alaska*, 367 F. Supp. 3d 996, 1007-09 (D. Alaska 2019)). Judge Staton further explained that Janus did not address the enforcement of valid membership agreements between unions and their members and that the First Amendment does not provide a constitutional basis for individuals to avoid promises that would otherwise be enforceable under state law.

UTLA was represented by GLS firms Altshuler Berzon and Bush Gottlieb, as well as CTA and NEA in-house attorneys.

Hope the start of your school year has been smooth. Let us know if you have any questions or concerns, hope to see you soon,  
Mike and Shelly