

## A Bad Day for Bad Teachers

*Sixty years after Brown, a California court strikes a blow against the 21st Century equivalent of Jim Crow*

By Richard Berman

**Summary:** In 1954, the U.S. Supreme Court issued the landmark decision *Brown v. Board of Education*, which struck down racially segregated schools because, the court said, they were inherently unequal and they unjustly harmed poor and minority children. Last month, a California court cited *Brown* as it struck down multiple state laws, passed at the behest of teachers' unions, which the court said unjustly protected incompetent teachers and unconscionably harmed children, especially the least fortunate.



**Nine young people and their families filed suit against California's laws on teacher retention and dismissal, which, they say, protect bad teachers and deprive students of an equal, high-quality education.**

In a landmark decision that sent shock waves through the educational establishment, Los Angeles Superior Court Judge Rolf Treu ruled last month that California's teacher tenure laws unconstitutionally deprive students of their guarantee to an education and to equal rights. "The evidence is compelling," Judge Treu wrote. "Indeed, it shocks the conscience."

In *Vergara v. California*, nine students sued the State of California, claiming that ineffective teachers were disproportionately placed in schools with large numbers of "minority" and low-income students. Judge Treu agreed and quoted the U.S. Supreme Court's 1954 *Brown v. Board of Education* decision that education "is a right which must be made available to all on equal terms."

The *Vergara* decision came down less than one month after the 60th anniversary

of the *Brown* decision, in which the U.S. Supreme Court struck down state and federal laws establishing separate public schools for students classified by the government as "white" and "black." (In *Brown*, the Court consolidated cases from Kansas, Virginia, South Carolina, and Delaware, as well as the federal jurisdiction of Washington, D.C.) The Supreme Court found that the practice of segregation violated the provision in the U.S. Constitution that "No State shall make or enforce any law which shall . . . deny to any person within its jurisdiction the equal protection of the laws."

The argument in the *Vergara* case is that by forcing schools to favor incompetent teachers with seniority

over more capable junior teachers, the rules deprive students of the education that the state constitution guarantees them. Further, because these rules funnel bad teachers to districts with large numbers of poor and minority students, those students are denied the equal treatment of the law.

The *Vergara* lawsuit was backed by Students Matter, a nonprofit educa-

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tional policy advocacy group funded by Silicon Valley entrepreneur David Welch. “The state has a responsibility of delivering an education for the betterment of the child,” Welch told the *San Jose Mercury News*. “The state needs to understand that [its] responsibility is to teach children, and teach all of them.” Welch’s organization recruited the nine students, from several school districts, to serve as the public face of the case.

Astonishingly, the teachers’ union response to the ruling was that it was actually an attack on children. “This decision today is an attack on teachers, which is a socially acceptable way to attack children,” said Alex Caputo-Pearl, the president-elect of the Los Angeles teachers union. Instead of providing for smaller classes or more counselors, the reformers “attack teacher and student rights.”

Welch answered that claim in an op-ed for the *San Jose Mercury News* in which he described the harm students suffer from bad teachers:

According to the testimony of Harvard economist Dr. Thomas Kane, a student assigned to the classroom of a grossly ineffective math teacher in Los Angeles loses almost an entire year of learning compared to a student assigned

to a teacher of even average effectiveness. Students assigned to more than one grossly ineffective teacher are unlikely ever to catch up to their peers.

And far from wanting to attack all teachers, Welch in the same article pleaded with his fellow Californians to reward good teachers:

Let’s offer teachers opportunities for promotions, such as to master teacher, teacher mentor, or department chair, where the skills of a truly excellent, creative educator can reach more children—as well as better pay with incentives for excellence and taking on extra responsibilities or difficult positions.

No less a union friend than Rep. George Miller (D-Calif.), whose largest campaign support comes from unions, has bluntly admitted, “*Vergara* will help refocus our education system on the needs of students.” No wonder the teachers’ unions made five separate legal efforts to have the lawsuit dismissed on grounds other than the merits of the case.

California teacher union members number some 445,000. Both the California Teachers Association (CTA, an affiliate of the National Education Association) and the California Federation of Teachers (CFT, an affiliate of the American Federation of Teachers) plan to appeal the court’s decision. Jim Finberg, a lawyer for the two teachers’ unions, said that Judge Treu’s decision “ignores overwhelming evidence the current laws are working.”

Actually, less than 0.002% of teachers in California are dismissed in any given year. Judge Treu noted that when an effort is made to fire a teacher: “It could take anywhere from two to almost ten years and cost \$50,000 to \$450,000 or more to bring these cases to conclusion under the Dismissal Stat-

ute, and that given these facts, grossly ineffective teachers are being left in the classroom.”

Judge Treu concluded that “distilled to its basics,” the unions’

position requires them to defend the proposition that the state has a compelling interest in the *de facto* separation of students from competent teachers, and a like interest in the *de facto* retention of incompetent ones. The logic of this position is unfathomable and therefore constitutionally insupportable.

### Seniority vs. merit

The *Vergara* decision overturned a LIFO (last-in/first-out) law requiring that teacher layoffs be based on seniority, rather than individual merit. California’s Permanent Employment Law required that a teacher be tenured after two years at a school (which, because of an early notice requirement, worked out in practice to 18 months or less). California is one of only five states in which tenure may be received after such a short period. As noted by the blog “Voice of San Diego”:

Regardless of what we call it, here’s how it looks in San Diego Unified. Once they’re hired, rookie teachers have to make it through a two-year probationary period, during which they can be dismissed for pretty much any reason.

But because the district has to tell teachers by mid-March whether they’ll be invited back for the next school year, the trial period is actually shorter than two years. In the past, the district hasn’t been particularly aggressive in the number of probationary teachers it sends away—only about 1 percent wasn’t given tenure.

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“With such little time, you don’t even have enough information to actually consider whether they’re an effective teacher,” said Nancy Waymack, a managing director for the reform-advocacy group National Council on Teacher Quality.

Compared to other states, California has some of the strongest laws in place to protect teacher employment. The effect of this case may spur action throughout the nation. “Without a doubt, this could happen in other states,” said Terry Mazany, who served as interim CEO of Chicago’s public schools in 2010-2011. A lawyer for Students Matter said they are already hoping to “engage with policymakers in New York and nationally,” and donor David Welch said the group would consider suits in other states (New Jersey, Connecticut, Maryland, Minnesota, New Mexico, and Oregon were mentioned as possible sites).

### Undue process

The term “due process” refers to a legal or quasi-legal system that protects the rights of an individual, such as requiring a trial before a person can be executed. Unions defend the complicated procedures for firing teachers by claiming they amount to “due process” that protects those teachers from arbitrary, unfair treatment. As the Pew publication *Stateline* reports, “The unions argue that the rules protecting teachers are needed for school districts to attract and retain good teachers and to ensure that employees are not fired for arbitrary or unfair reasons.”

But the judge ruled in *Vergara* that the process has become so cumbersome—that it’s become so difficult to get rid of bad teachers—that it deprives students of *their* rights. He ridiculed the process as “über due process,” and observed that California state laws already provide a great deal of protection for gov-

ernment and private-sector employees facing dismissal. “Why,” he pleaded, “the need for the current tortuous process” that is mandated only for teachers, a process so unjust, he added, that it was even decried by witnesses called by the teachers’ unions?

James Taranto of the *Wall Street Journal* noted an irony at the center of the ruling:

The California Supreme Court had applied the same legal premises to hold unconstitutional funding disparities among districts and one district’s decision to end the school year six weeks early owing to a budgetary shortfall. *Vergara* doesn’t break new legal ground so much as apply precedent in a way that threatens the education establishment. It’s a case of judicial activism coming back to bite the left.

### A permanent job

As noted in *Waiting for ‘Superman,’* a documentary promoting educational reform, one out of every 57 doctors

loses his or her license to practice medicine, and one of every 97 lawyers loses his or her license to practice law. Yet, in many major cities, only one out of 1,000 teachers is fired for performance-related offenses. The reason is tenure, or as the unions call it, “permanent status.”

Tenure is the practice of guaranteeing a teacher his or her job. Originally, this was a due process guarantee, something intended to work as a check against administrators capriciously firing teachers and replacing them with friends or family members. It was also designed to protect teachers who took political stands the community might disagree with. Tenure as we understand it today was first seen at the university level, where, ideally, professors would work for years and publish many pieces of inspired academic work before being awarded what amounted to a job for life.

At the elementary and high school level, tenure has evolved from the original understanding of “due process” to the university-style “job for life.” In most

### Gaming the system

The New Teacher Project (now known as TNTP) is a group that, according to its website, focuses on “giving poor and minority students equal access to effective teachers.” The Project collected this story from a school principal about one major problem, the priority that must be given “excessed” teachers—those whose positions have been eliminated, but who get first crack at new job openings:

If you are smart enough, you hide your vacancies. You say to the HR staffing liaison, “I don’t anticipate that I will need another English teacher.” At the same time, you have already identified the teacher you want for the position. You say to the teacher, “If you can hang in there and not start officially teaching until late September, but remain as a substitute until then, I will do everything to try to hire you.” Then, you call the liaison back when you know all of the excessed teachers have been placed someplace else, and say, “Oh I actually do need someone.” You say, “I have some resumes” and pretend to just find someone for the slot even though I had them all along. If you are a smart principal, you do this all of the time. But it is very hard to do this where there are a lot of excess teachers, like in social studies.

states, teachers are awarded tenure after only a few years, after which time they become almost impossible to fire. The main function of these laws is to help bad teachers keep their jobs.

► One Los Angeles union representative has said: “If I’m representing them, it’s impossible to get them out. It’s impossible. Unless they commit a lewd act.”

Unfortunately for the students who have to learn from these educators, virtually every teacher who works for the Los Angeles Unified School District receives tenure. In a study of its own, the *Los Angeles Times* reported that fewer than two percent of teachers are denied tenure during the probationary period after being hired. And once they have tenure, there’s no getting rid of them. Between 1995 and 2005, only 112 Los Angeles tenured teachers faced termination—eleven per year—out of 43,000. And that’s in a school district where the high school graduation rate in 2003 was a pathetic 51 percent.

► One New Jersey union representative was even blunter about what his union does to keep bad teachers in the classroom: “I’ve gone in and defended teachers who shouldn’t even be pumping gas.”

In 10 years, only about 47 out of 100,000 teachers were terminated from New Jersey’s schools. Original research conducted by the Center for Union Facts (CUF) has confirmed that almost no teacher is ever fired in Newark, which is New Jersey’s largest school district, no matter how bad a job the teacher does. Over one four-year period, CUF discovered, Newark’s school district successfully fired about one out of every 3,000 tenured teachers annually. This is a city where roughly two-thirds of students never graduate from high school.

► In New York City, the *New York Daily News* reported that “just 88 out of some 80,000 city schoolteachers have lost their jobs for poor performance” over 2007-2010.

Then there were the so-called “rubber rooms” of New York City, which officially operated until 2010. Teachers who couldn’t be relieved of duty would report to these “rubber rooms,” where they would be paid to do nothing for weeks, months, even years.

According to the *New York Daily News*, at any given time an average of 700 teachers were being paid not to teach while the district jumped through the hoops, imposed by the union contract and the law, to pursue discipline or termination. (A city teacher in New York who ended up being fired spent an average of 19 months in the disciplinary process.) The *Daily News* reported that the New York City school district spent more than \$65 million annually just to pay the teachers who were accused of wrongdoing. Millions more tax dollars were spent to hire substitutes.

After the embarrassing *Daily News* story and an exposé in the *New Yorker*, the union agreed to end the practice of rubber rooms but refused to expedite the dismissal process. Instead of whiling the days away doing nothing, the teachers were assigned to do clerical work and perform other semi-useful tasks.

As of 2013, the city still spends \$29 million per year to pay teachers reassigned away from the classroom, according to the *Daily News*.

The problem isn’t limited to teachers accused of wrongdoing. The city spends more than \$100 million every year paying teachers who have been excessed (i.e., whose positions have been eliminated) but have yet to find jobs.

According to the *Wall Street Journal*, the ironclad union contract requires that any teacher with tenure be paid full salary and benefits if he or she is sent to the “Absent Teacher Reserve pool.” The average pay of a teacher in that pool is over \$80,000 a year, and some teachers have stayed in the pool for years. The *Journal* reports that the majority of teachers in the pool had “neither applied for another job in the system nor attended any recruitment fairs in recent months.”

► Things are no better in New York as a whole. The *Albany Times Union* looked at what was going on statewide outside New York City and discovered some shocking data: Of 132,000 teachers, only 32 were fired for any reason between 2006 and 2011.

► In Chicago, a school system that has by any measure failed its students—only 28.5 percent of 11th graders met or exceeded expectations on that state’s standardized tests—*Newsweek* reported that only 0.1 percent of teachers were dismissed for performance-related reasons between 2005 and 2008. When barely one in four students nearing graduation can read and do math, how is it possible that only one in one thousand teachers is worthy of dismissal? It may well be that most of the city’s teachers are good teachers, but can 99.9% of them be good?

### **Effects of tenure and related teacher “protections”**

Modeled after labor arrangements in factories, the typical teachers’ union contract is loaded with provisions that do not promote education. These provisions drive away good teachers, protect bad teachers, raise costs, and tie principals’ hands.

#### **• *The Dance of the Lemons***

One of the more shocking scenes in the documentary *Waiting for ‘Super-*

*man*' is an animated illustration of "The Dance of the Lemons." This is no waltz or foxtrot. Rather, it's the systematic shuffling of incompetent teachers from school to school. These teachers can't be fired because union contracts require that "excessed" educators, no longer needed at their original school, must be given first crack at new job openings when slots open up elsewhere in the district. Administrators at other schools don't want to hire these bad teachers, but districts are unable to fire them.

What happens? *LA Weekly* documented just how this process plays out in Los Angeles in a massive 2010 investigation. "The far larger problem in L.A. is one of 'performance cases'—the teachers who cannot teach, yet cannot be fired. Their ranks are believed to be sizable—perhaps 1,000 teachers, responsible for 30,000 children. ... The *Weekly* has found, in a five-month investigation, that principals and school district leaders have all but given up dismissing such teachers. In the past decade, LAUSD officials spent \$3.5 million trying to fire just seven of the district's 33,000 teachers for poor classroom performance—and only four were fired, during legal struggles that wore on, on average, for five years each. Two of the three others were paid large settlements, and one was reinstated. The average cost of each battle is \$500,000."

*Unintended Consequences*, a study by The New Teacher Project (TNTP), documented the damage done by this union-imposed staffing policy. In an extensive survey of five major metropolitan school districts, TNTP found that "40 percent of school-level vacancies, on average, were filled by voluntary transfers or excessed teachers over whom schools had either no choice at all or limited choice." One principal decried the process as "not

about the best-qualified [teacher] but rather satisfying union rules."

### ● *Thinning the talent pool*

One problem related to the destructive transfer system is a hiring process that takes too long and/or starts too late, thanks in part to union contracts. Would-be teachers typically cannot be hired until senior teachers have had their pick of the vacancies, and the transfer process makes principals reluctant to post vacancies at all for fear of having a bad teacher fill it instead of a promising new hire.

In the study *Missed Opportunities*, The New Teacher Project found that these staffing hurdles help push urban districts' hiring timelines later to the point that "anywhere from 31 percent to almost 60 percent of applicants withdrew from the hiring process, often to accept jobs with districts that made offers earlier."

"Of those who withdrew," the TNTP report continues, "the majority (50 percent to 70 percent) cited the late hiring timeline as a major reason they took other jobs." It's the better applicants who are driven away: "Applicants who withdrew from the hiring process had significantly higher undergraduate GPAs, were 40 percent more likely to have a degree in their teaching field, and were significantly more likely to have completed educational coursework" than the teachers who ended up staying around to finally receive job offers.

### ● *Keeping experienced teachers away from poor children*

Another common problem with the union contract is a "bumping" policy that fills schools which are more needy (but less desirable to teach in) with greater numbers of inexperienced teachers. In its report *Teaching Inequality*, the Education Trust noted:

"Children in the highest-poverty schools are assigned to novice teachers almost twice as often as children in low-poverty schools. Similarly, students in high-minority schools are assigned to novice teachers at twice the rate as students in schools without many minority students."

### ● *Bad apples stay*

A study conducted by Public Agenda polled 1,345 schoolteachers on a variety of education issues, including the role that tenure played in their schools. When asked "does tenure mean that a teacher has worked hard and proved themselves to be very good at what they do?," 58 percent of the teachers polled answered that no, tenure "does not necessarily" mean that. In a related question, 78 percent said a few (or more) teachers in their schools "fail to do a good job and are simply going through the motions."

When Terry Moe, the author of *Special Interest: Teachers Unions and America's Public Schools*, asked teachers what they thought of tenure, they admitted that the byzantine process of firing bad apples was too time-consuming: 55 percent of teachers, and 47 percent of union members, answered yes when asked "Do you think tenure and teacher organizations make it too difficult to weed out mediocre and incompetent teachers?"

### ● *The union tax on firing bad teachers*

So why don't districts try to terminate more of their poor performers? The sad answer is that their chance of prevailing is vanishingly small. Teachers unions have ensured that even with a victory, the process is prohibitively expensive and time-consuming. In the 2006-2007 school year, for example, New York City fired only 10 of its 55,000 tenured teachers, or 0.018%.

The cost to eliminate those employees averages out to \$163,142, according to *Education Week*. The *Albany Times Union* reports that the average process for firing a teacher in New York state outside of New York City proper lasts 502 days and costs more than \$216,000. In Illinois, Scott Reeder of the Small Newspaper Group found it costs an average of \$219,504 in legal fees alone to move a termination case past all the union-supported hurdles. In Columbus, Ohio, the teachers' union president admitted to the Associated Press that firing a tenured teacher can cost as much as \$50,000. A spokesman for Idaho school administrators told local press that districts have been known to spend "\$100,000 or \$200,000" in litigation costs to toss out a bad teacher.

It's difficult even to entice the unions to give up tenure for more money. In Washington, D.C., school chancellor Michelle Rhee proposed a voluntary two-tier track for teachers. On one tier, teachers could simply do nothing: Maintain their regularly scheduled raises and keep their tenure. On the other track, teachers could give up tenure and be paid according to how well they and their students performed, with the potential to earn as much as \$140,000 per year. The union wouldn't even let that proposal come up for a vote among its members, and stubbornly blocked efforts to ratify a new contract for more than three years. When the contract finally did come up for ratification by the rank and file, the two-tier plan wasn't even an option.

● **Taking money from good teachers to give to bad teachers**

During the expansion of teacher collective bargaining in the mid-twentieth century, economists from Harvard and the Australian National University found that the average, inflation-

adjusted salary for U.S. teachers rose modestly—while “the range of the [pay] scale narrowed sharply.”

Measuring aptitude by the quality of the college a teacher attended, the researchers found that the advent of the collectively bargained union contract

for teachers meant that, on average, more talented teachers were receiving less, while less talented teachers were receiving more.

The earnings of teachers in the lowest aptitude group (those from the bottom-

**“If teachers don’t improve kids’ learning, what are they there for?”**

For a report on teachers unions and the media, veteran *Philadelphia Inquirer* education reporter Dale Mezzacappa summarized one (former) union activist’s evolving attitude towards the union contract:

Teacher collective bargaining, which was to address injustices, instead added to them. Recently, I had lunch with a retired Philadelphia teacher who spent 30 years in the system. In her younger years, she had participated in more than a dozen strikes and lockouts, often risking jail.

Now, she trains young art teachers and tries to get them jobs in city schools. She laments how the contract prevents her from choosing the best mentors for her student teachers. She’s upset that burned-out, ineffective teachers are holding positions that her students would thrive in, and nothing can be done. She finds herself placing them more and more often in charter schools.

But what about all those days walking picket lines? What about all those bruising battles over protecting teachers’ rights?

The swiftness of her answer surprised even me. “We were wrong,” she said.

Mezzacappa also recounted this story, the only time in her reporting career when she was goaded into responding in kind to someone who yelled at her. The provocateur in question was an attorney for the Philadelphia Federation of Teachers, angry at her for her coverage of a 1996 contract settlement between the union and the district:

“We won!!” the lawyer shouted at me. “That should have been the headline! He” — the superintendent — “got nothing!”

Uncharacteristically, I yelled back. The night before, I had found it unsettling, to say the least, to watch as thousands of teachers cheered wildly at the news that they didn’t have to worry about whether their students learned anything. They’d still get automatic raises even if none of their kids met achievement goals; they’d still get their pick of jobs based on seniority; they’d still have the right to refuse extra training even if their teaching skills were woefully out of date.

“If teachers don’t improve kids’ learning, what are they there for?” I asked. “What should they be judged on? What are they getting paid to do?”

To which I got the remarkable rejoinder: “Teacher performance and student achievement have nothing to do with each other.”

tier colleges) rose dramatically relative to the average wage, so that teachers who in 1963 earned 73 percent of the average salary for teachers could expect to earn exactly the average by 2000. Meanwhile, the ratio of the earnings of teachers in the highest-aptitude group to earnings of average teachers fell dramatically. In states where the highest-aptitude teachers began with an earnings ratio of 157 percent, they ended with a ratio of 98 percent.

Data from the National Center for Education Statistics, as reported by *Education Week*, add further evidence to the compressed-pay claim. The Center's stats indicate that the average maximum teacher pay nationwide is only 1.85 times greater than the nationwide average salary for new teachers.

#### ● **Locking up education dollars**

Much of the money commanded by teachers' union contracts is not being used well, at least from the perspective of parents or reformers. Several provisions commonly found in union contracts that cost serious money have been shown to do little to improve education quality.

A report from the nonprofit Education Sector found that nearly 19 percent of all public education spending in America goes towards things like seniority-based pay increases and outsized benefits—things that don't go unappreciated by teachers, but don't do much to improve the quality of teaching children receive. If these provisions were done away with, the report found, \$77 billion in education money would be freed up for initiatives that could actually improve learning, like paying high-performing teachers more money.

#### ● **Putting kids at risk**

Teachers unions push for contracts that effectively cripple school districts'

ability to monitor teachers for dangerous behavior. In one case, school administrators in Seattle received at least 30 warnings that a fifth grade teacher was a danger to his students. However, thanks to a union contract that forces schools to destroy most personnel records after each school year, he managed to evade punishment for nearly 20 years, until he was finally sent to prison in 2005 for having molested as many as 13 girls. As an attorney for one of the victims put it, according to the *Seattle Times*, "You could basically have a pedophile in your midst and not know it. How are you going to get rid of somebody if you don't know what they did in the past?"

#### **The bottom line**

Too many schools are failing too many children. Americans should not remain complacent about how districts staff, assign, and compensate teachers. And too many teachers' union contracts preserve archaic employment rules that have nothing to do with serving children.

Even Al Shanker, the legendary former president of the American Federation of Teachers, admitted, "a lot of people who have been hired as teachers are basically not competent."

This is what the union wants: To keep teachers on the payroll regardless of whether or not they are doing any work or are needed by the school district. Why? As long as they are on the payroll, they keep paying union dues. The union doesn't care about the children who will be hurt by this misallocation of tax dollars. All union leaders care about is protecting their members and, by extension, their own coffers.

Most teachers absolutely deserve to keep their jobs, and some have begun to speak out about the absurdity of

teacher tenure, but it's impossible to pretend that the number of firings actually reflects the number of bad teachers protected by tenure. As long as union leaders possess the legal ability to drag out termination proceedings for months or even years—during which time districts must continue paying teachers, and substitute teachers to replace them, and lawyers to arbitrate the proceedings—the situation for students will not improve.

The *Vergara* case offers hope, but supporters of better education cannot rely on judges to fix America's schools. Parents and teachers must join together to eliminate teacher tenure systems that protect bad teachers and that divert our best teachers away from many of the students who could benefit most from their skills and experience.

*Richard Berman is executive director of the Center for Union Facts. Some of this material appeared previously on the website TeachersUnionExposed.com, a project of the Center for Union Facts.*

**LW**

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**Many thanks,  
Terrence Scanlon  
President**

# LaborNotes

In February, we reported on the elections in **Seattle**, where a socialist was elected to the city council on a platform that included a \$15-an-hour “minimum wage.” Now the city council has passed such a measure. In effect, such a scheme makes it illegal to hire unskilled workers—anyone whose hourly labor is worth less than about \$18 an hour (\$15 plus the cost of taxes and of mandated benefits such as Obamacare). So much for leftists’ claims that they care about poor people! In response to the council’s action, **Reason** magazine noted sarcastically: “Seattle Prepares for Robot Revolution by Setting \$15 Minimum Wage.”

In **Rhode Island**, the state treasurer, **Gina Raimondo** (D) pushed a plan through the state legislature in 2011 that the **Wall Street Journal** called “arguably the country’s boldest pension reforms,” which “froze current workers’ accrued benefits, suspended retirees’ cost-of-living adjustments, raised the retirement age, and replaced unsustainable defined-benefit pensions with hybrid plans that include a modest annuity and a 401(k)-style component.” The plan would have cut the state’s unfunded liability nearly in half. Unions sued, and a judge ruled that pensions constitute “an implied contract,” but Raimondo and Governor **Lincoln Chafee** (D) negotiated a deal that kept 94% of the savings. More than 70% of state workers and retirees backed the compromise, but a majority of police officers voted against the deal, killing it. Now the case is set to go to trial a week after September’s primary election, in which Raimondo is running for governor (and unions hope to defeat her; they claim she’s trying to “enrich herself and her hedge fund backers”). The *Journal* editorialized that “the larger political lesson for government reformers is that public unions will never compromise until they are defeated in court and at the ballot box.”

At the **United Auto Workers**, failure is a great way to get a promotion, as long as you’re a friend of **the President of the United States**. **Dennis Williams** served as UAW secretary-treasurer during a period in which the strike fund shrunk 40 percent, from \$1 billion to \$600 million, leading to a 25 percent increase in dues, the first dues hike in 47 years. Now, with 98 percent of the vote at the union’s convention, Williams has been elected as the UAW’s president. (Williams knew President Obama when the President was a member of the **Illinois** state senate; “I consider the President to be a friend,” he said.)

Filling his old job as secretary-treasurer is **Gary Casteel**. Casteel’s previous job was as the regional director in charge of the campaign to unionize the Volkswagen plant in **Chattanooga**, which ended in a catastrophic defeat.

The UAW may have lost in Chattanooga, but the radical **Service Employees International Union** is doing fine. As noted by **Matt Patterson** of the **Center for Worker Freedom**, Mayor **Andy Berke** (D), who was elected with union support, quietly signed a “memorandum of understanding” with SEIU Local 205, which represents city employees. The pact allows the union to hold meetings on city property, provides for advance notice to the union for changes in personnel policy, and provides 600 hours of “release time,” during which taxpayers will foot the bill for union officials doing union work.

“Release time,” also known as “official time,” plagues government agencies at all levels. **Kimberly Strassel** of the **Wall Street Journal** reports that, at the **Department of Veterans Affairs**, one federal employee—who happens to be the president of **Local 1798** of the **National Federation of Federal Employees**—spends 100 percent of her time on union activities. This information was revealed when she broke her ankle and sued to be allowed to work entirely from home, on union business. (She won the lawsuit when the department failed to respond to the complaint. Apparently the VA was too busy denying healthcare to veterans to defend itself in court.)

For standing up to the public-employee unions that were bankrupting his state, Governor **Scott Walker** (R-**Wisconsin**) has been a target. Union officials conducted a massive campaign to recall him and his political allies, which he and most of his allies survived. Then, union-allied prosecutors, with the enforcement of campaign-finance laws as an excuse (but without actual justification for a search), went after Walker’s supporters. Columnist **George F. Will** described the scene: Their “fists pounding on the doors of private citizens in pre-dawn raids,” authorities used “floodlights to illuminate the citizens’ homes, armed raiders seized documents, computers, cellphones and other devices.” Judges at both the state and federal level have thrown the case out—but not before the unions and their allies sent a message of, in Will’s words, “disruption and intimidation.”