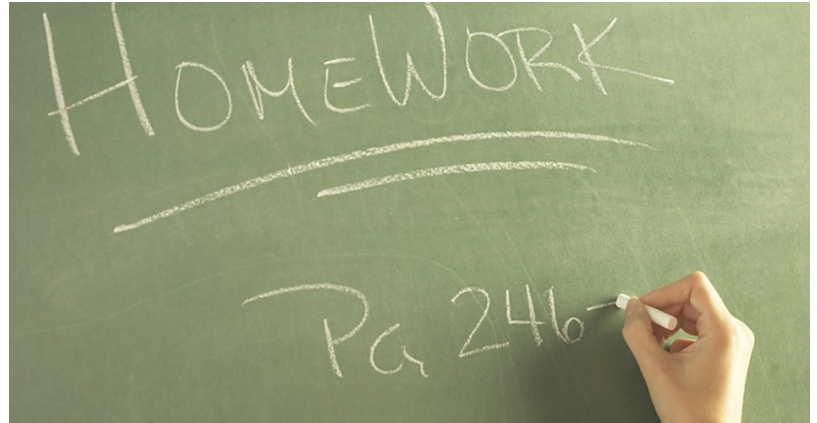




Written by [Bob Adelman](#) on June 26, 2014

Lawsuit to be Filed Against Teacher Tenure Rules in New York

Following the widely hailed victory over California's egregious teacher tenure rules in court earlier this month, another group [is bringing suit](#) in New York to challenge similar rules. Called the Partnership for Educational Justice, it has enlisted pro bono efforts from Jay Lefkowitz, a skilled and capable litigator with previous victories against teacher unions under his belt.



The lawsuit will challenge laws similar to those which Los Angeles Superior Court Judge Rolf Treu ruled to be unconstitutional in California, namely, rules that permit tenure to be granted after just 16 months on the job, rules that make it nearly impossible to fire a teacher who has been granted tenure, and LIFO (last in, first out) rules that terminate teachers during layoffs who were newly hired even if they are competent.

Although the rules in New York aren't exactly the same (tenure is allowed to be granted after three years, for example), the strategy that worked so well in California will be presented in New York: bringing cases of students who wanted to learn but couldn't due to incompetent teachers. The Partnership and Lefkowitz had been working on the lawsuit long before the California case was decided.

Its case for reform can be found on its website, claiming,

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Only about 3 in 10 students across [New York] scored "proficient" or better on annual reading and math tests.

In two of the state's largest school districts, fewer than 1 in 10 students passed these tests.

Based on current trends, 1 out of every 4 students statewide — and many as half of all students in the state's largest districts — won't be able to graduate from high school on time [or be] prepared for college.

It decried rules that make it nearly impossible to fire a teacher once she has gained tenure, claiming that it can take up to 18 months and cost more than \$250,000 to terminate a single poorly performing teacher and replace her with a competent one. It cites the experience in New York City where only 12 teachers out of 75,000 have been replaced *over an entire decade*: from 1997 to 2007. It said: "Teachers in New York City are more likely to die on the job than be replaced because of poor performance."

The lawsuit will go after the LIFO rules as well that currently make it illegal for school administrators to



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keep the best teachers during a period of downsizing, calling it a “quality-blind approach” to layoffs that ignores performance and only considers time on the job.

If one looks behind the Partnership for Education Justice, one would likely be surprised to find a hardcore liberal, Campbell Brown, a former CNN anchor, pushing for the reform. Looking further one would be surprised to find support for teacher tenure reform coming from present and former members of the Obama administration. Upon learning of the California decision, Obama’s current Secretary of Education, Arne Duncan, noted on his blog at the department’s website that he supported the judge in his ruling. He said that the ruling gives emphasis and momentum to the drive to “retain the most effective teachers [and] remove teachers who are ineffective.”

At the same time, two former members in the Obama administration, Robert Gibbs and Ben Labolt, along with a supporter during Obama’s 2008 presidential campaign, Jon Jones, have joined forces to roll out a national education campaign supporting the change in teacher tenure rules.

Gibbs, Obama’s former White House Press Secretary, calls himself a “core member of the team that built the Obama brand from the ground up, beginning in 2004,” while Labolt served as the national press secretary for Obama’s reelection campaign. Labolt also served as press secretary for Rep. Sherrod Brown’s campaign for the Senate, as well as communications director for Rahm Emanuel’s campaign for mayor of Chicago. He also served as Obama’s spokesman during efforts to confirm liberal justices Sonia Sotomayor and Elena Kagan to the Supreme Court.

Jones was the key player behind efforts to replace moderate Pennsylvania Senator Rick Santorum with hard left Bob Casey in 2006, calling himself “the first digital strategist for Obama’s historic 2008 presidential campaign.”

This raises the question: Why would these supporters of Obama, who himself is widely supported by teachers’ unions across the country, join together in efforts to remove some of their most favored rules that protect teachers? Part of the answer is revealed in comments by one of Lefkowitz’s assistants in the New York lawsuit, Devora Allen, who explained:

This case is not an assault on the public school system. Or teachers. It’s actually a case that’s designed to promote effective teachers.

Arne Duncan added further clarity when he wrote in his blog praising the California decision:

Tenure itself is not the issue here. I absolutely support job security for effective teachers.

It’s not too much of a stretch to postulate that the real reason behind all the enthusiasm by liberals for teacher tenure reform in New York is the recognition of the threat of increasing public support for privatization of education as these lawsuits proceed. Their exposition of the dreadful teaching conditions in public schools, which are hamstrung by union rules that protect incompetent teachers, risks building public pressure for the real remedy: returning education control back to local school boards and charter schools and home schooling. That must not happen.

If “reforms” sufficient to improve the teaching environments in public schools can be implemented, such public pressure for real reform can be blunted and neutralized. That may just be why high-powered left-of-center progressives such as Gibbs, Jones, Labolt, and Brown have decided to jump into the middle of the fray. They just might have an agenda of their own.

A graduate of Cornell University and a former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at www.LightFromTheRight.com, primarily on economics



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