

E-FILED
6/11/2019 2:19 PM
Superior Court of California
County of Fresno
By: M.Sanchez, Deputy

19CECG02032

1 1. At all times material herein, Petitioners have been employed in the County of
2 Fresno, and are members of FTA and members of the Representative Council of Respondent
3 FTA;

4 2. Petitioners bring this Verified Petition in their own names, and on behalf of other
5 members of Respondent FTA, to compel Respondents to perform their legal duties by
6 rescinding a dues increase which was adopted in violation of the By-Laws of Respondent FTA

7 3. Petitioners, and other members of Respondent FTA on whose behalf Petitioners
8 bring this action, are directly affected by Respondents' actions, and are beneficially interested
9 in the performance by Respondents of their legal duties as hereinafter alleged.

10 4. At all times material herein, Respondent FTA has been and is a Corporation, and
11 an employee organization as that term is defined in California Government Code section
12 3540.1 (d), duly organized and existing under the laws of the State of California, having its
13 principal place of business in the City of Fresno, County of Fresno, State of California, and
14 representing employees at the school sites and offices maintained by the Fresno Unified School
15 District (hereinafter, the "District").

16 5. At all times material herein, Respondent Bonilla was and is the President of
17 Respondent FTA, charged with the responsibility, inter alia, of complying with the policies,
18 ByLaws and standing rules of Respondent FTA in overseeing the day-to-day operations of
19 Respondent FTA, subject to the direction of the Executive Board, Representative Council and
20 membership of Respondent FTA.. Respondent Bonilla is named herein in his representative
21 capacity only, and not as an individual.

22 6. At all times material herein, there have been in full force and effect a set of
23 Bylaws, duly adopted pursuant to the Articles of Incorporation of Respondent FTA by the
24 membership of Respondent FTA and subject to amendment, as provided therein, by the
25 Representative Council of Respondent FTA (hereinafter the "ByLaws"). A true and correct
26 copy of the ByLaws is attached hereto as Exhibit "One" and is incorporated by reference as if
27 fully set forth herein.
28

1 11. The ByLaws provide as follows, in pertinent part

2 **V. DUES, FEES AND ASSESSMENTS**

3 A. The dues index for all classes of membership will be
4 recommended by the Executive Board and determined by the Representative
5 Council...

6 B. A notice of intent to change the dues index will be given to
7 the general dues-paying membership 30 days prior to action by the Representative
8 Council...

9 12. Notwithstanding the provisions of the ByLaws referenced in paragraph 11 supra,
10 at a meeting of the Representative Council held on March 11, 2019, a motion was introduced to
11 increase the dues of members of Respondent FTA, and said motion was declared by
12 Respondent Bonilla to have been adopted, even though no notice of intent to change the dues
13 had been given to the dues-paying membership of Respondent FTA prior to said meeting of the
14 Representative Council.

15 13. Furthermore, contrary to the internal practices and procedures of the
16 Representative Council at its meetings, Respondent Bonilla refused to allow a count of those
17 voting at the Representative Council meeting on March 11, 2019, to determine whether a
18 majority of the present Representative Council delegates had in fact voted to increase the
19 membership dues.

20 14. Since the meeting of the Representative Council on March 11, 2019, Respondents
21 and each of them have taken measures to implement the dues increase, applicable to all dues-
22 paying members of Respondent FTA, notwithstanding the objections of Petitioners. It is not
23 known to Petitioners whether any deductions from members' pay has actually occurred, since
24 classes at the District have concluded for School year 2018-2019, and members have begun
25 their summer vacation.

26 15. Respondents, and each of them, have a legal duty to obey, and not to violate, the
27 internal ByLaws and governing corporate documents of Respondent FTA.

28 16. By the actions described in Paragraphs 12 and 13 above Respondents FTA and
Bonilla, and each of them, have violated their legal duty in that Respondents, by adopting and

1 attempting to implement the motion introduced at the Representative Council meeting on
2 March 11, 2019, failed to comply with the internal bylaws, policies, and standing rules of
3 Respondent FTA with respect to dues increases

4 17. Petitioners, and each of them, have been damaged by Respondents' failure to
5 perform their legal duties as alleged, in that Petitioners and each of them, in addition to the
6 members of Respondent FTA on whose behalf Petitioners bring this action, will not only suffer
7 a deduction of dues moneys from their paychecks of which they had no notice as required by
8 the ByLaws of the Respondent FTA, and to which they did not consent, but they have
9 additionally suffered a disregard of the protection afforded by those ByLaws by Respondent
10 Bonilla.

11 18. Petitioners, and each of them, have no adequate and/or available administrative
12 remedy of which to avail themselves in this matter.

13 19. Petitioners, and each of them, have no plain, speedy or adequate legal remedy
14 available to them. Respondents, by their failure to perform their legal duties as described
15 above, have deprived Petitioners of substantial legal rights, and damages in a suit at law do not
16 constitute sufficient relief where a corporate official must be ordered to cease and desist from,
17 or to perform, an act.

18 WHEREFORE, Petitioners pray judgment as is more fully set forth below

19 **SECOND CAUSE OF ACTION**

20 **Declaratory Relief**

21 20. Petitioners reallege and incorporate, as if fully set forth herein, all of the
22 allegations of Paragraphs 1 through 14 of their First Cause of Action.

23 21. An actual controversy exists, requiring the action of the Court, in that Petitioners
24 contend that Respondents and each are in the process of enacting a dues increase which was not
25 authorized pursuant to the corporate ByLaws of Respondent FTA, whereas Respondents have
26 contended that their actions have been lawful.

1 22. Petitioners seek a judgment from the Court declaring the dues increase being
2 implemented by Respondent was enacted in contravention of Respondent FTA's ByLaws, is
3 therefore null and void, that all steps taken to implement said dues increase should therefore be
4 discontinued, and that any deductions made pursuant to the purported action of the
5 Representative Council should be promptly refunded to any members of Respondent FTA, with
6 interest thereon.

7 **WHEREFORE**, Petitioners pray judgment as more fully follows:

8 FOR PETITIONERS' FIRST CAUSE OF ACTION:

9 1. That this Court issue a Peremptory Writ of Mandate under the seal of this Court,
10 directing Respondents and their agents, officials, and representatives, to perform their legal
11 duties by rescinding the Motion purportedly adopted by the Representative Council on March
12 11, 2019, and taking no further action to implement the terms of said motion;

13 2. That Respondents and each of them, be ordered to take whatever actions are
14 necessary to cancel and undo whatever actions were taken to implement said Motion, including
15 notification to the District and all members of Respondent FTA that there will be no dues
16 increase unless and until an increase is properly adopted by the Representative Council in a
17 manner consistent with the governing corporate documents of Respondent FTA';

18 3. That Respondents be ordered to refund, with interest thereon at the legal rate of
19 interest, any additional dues, over and above those dues lawfully adopted prior to March 11,
20 2019, deducted by Respondent FTA from its members;

21 4. Petitioners be awarded prejudgment interest on dues moneys refunded to members
22 of Respondent FTA, as provided for in section 3287 of the California Civil Code;

23 5. For an award to Petitioners of attorney's fees according to proof, upon noticed
24 motion;

25 6. For Petitioners' costs of suit; and

26 7. For such other and further relief which this Court considers just and proper.

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FOR PETITIONERS' SECOND CAUSE OF ACTION

1. That this Court issue a judgment, declaring that the dues increase purportedly adopted by the Representative Council was adopted in violation of the corporate ByLaws, and was of no force and effect;

2. That the Court order Respondents, and each of them, to cease and desist from making any efforts to collect the purported dues increase, to refund any moneys improperly collected pursuant to said purported dues increase, with interest thereon at the legal rate;

3. That the Court order Respondents, and each of them, to notify each member of Respondent FTA, and representatives of the District, of the invalidation of the purported dues increase, and the reasons therefor;

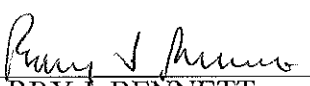
4. For an award to Petitioners of attorney's fees according to proof, upon noticed motion;

5. For Petitioners' costs of suit; and

6. For such other and further relief which this Court deems just and proper.

BENNETT, SHARPE & BENNETT, INC.

Dated: June 10, 2019

By 
BARRY J. BENNETT
Attorney for Petitioners

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VERIFICATION

I, HILARY LEVINE, being first duly sworn, depose and say:

I am one of the Petitioners in the above-entitled action.

I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

I swear under penalty of perjury that the foregoing is true and correct. Executed at Fresno, California this 10 day of June, 2019.


HILARY LEVINE

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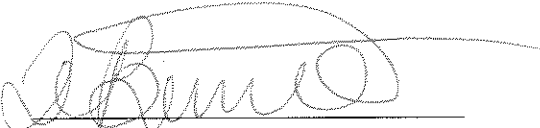
VERIFICATION

I, FELICIA BURRELL, being first duly sworn, depose and say:

I am one of the Petitioners in the above-entitled action.

I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

I swear under penalty of perjury that the foregoing is true and correct. Executed at Fresno, California this 10 day of June, 2019.


FELICIA BURRELL

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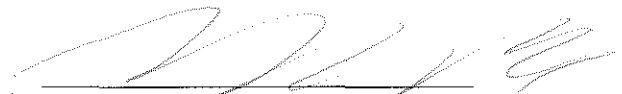
VERIFICATION

I, MARIA RIVERA, being first duly sworn, depose and say:

I am one of the Petitioners in the above-entitled action.

I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

I swear under penalty of perjury that the foregoing is true and correct. Executed at Fresno, California this 10 day of June, 2019.



MARIA RIVERA

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VERIFICATION

I, VIRGINIA RIVERA, being first duly sworn, depose and say:

I am one of the Petitioners in the above-entitled action.

I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

I swear under penalty of perjury that the foregoing is true and correct. Executed at Fresno, California this 10th day of June, 2019.


VIRGINIA RIVERA

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VERIFICATION

I, REBECCA McALARY, being first duly sworn, depose and say:

I am one of the Petitioners in the above-entitled action.

I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

I swear under penalty of perjury that the foregoing is true and correct. Executed at Fresno, California this 10th day of June, 2019.


REBECCA McALARY

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VERIFICATION

I, MARK VARGAS, being first duly sworn, depose and say:

I am one of the Petitioners in the above-entitled action.

I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated on information and belief, and as to those matters, I believe them to be true.

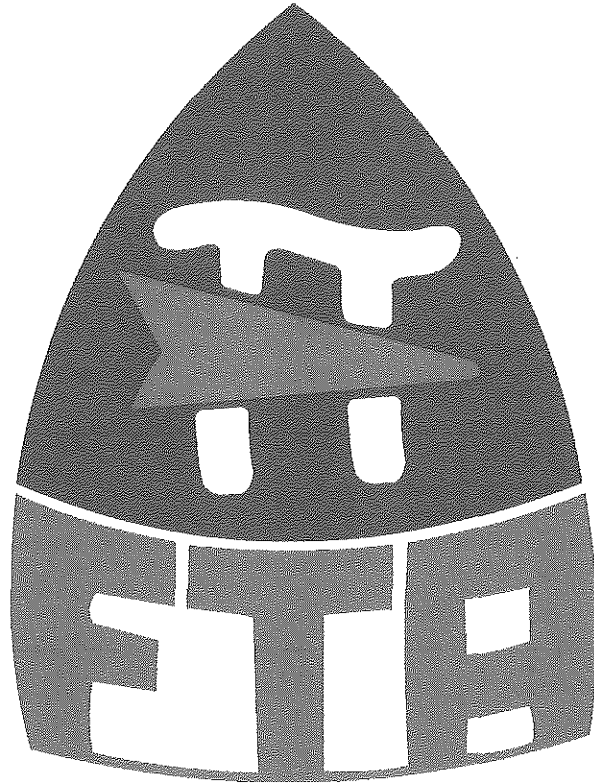
I swear under penalty of perjury that the foregoing is true and correct. Executed at Fresno, California this 10th day of June, 2019.



MARK VARGAS

EXHIBIT "ONE"

BYLAWS



Fresno Teachers Association

March 2019

AMENDED AS A WHOLE
September 19, 1990,
The FTA Executive Board
Recommended a do pass to the
FTA Representative Council.
October 15, 1990, approved by the
FTA Representative Council.

Amended September 16, 1991

Amended March 8, 1993

Amended May 20, 1996

Amended December 13, 1999

Amended February 14, 2000

Amended May 13, 2002

Revised June, 2003

Amended May 16, 2005

AMENDED AS A WHOLE
October 3, 2005,
the FTA Executive Board
recommended a do pass to the
FTA Representative Council.
October 11, 2004, approved by the
FTA Representative Council.

Amended November 14, 2005

Amended December 12, 2005

Amended PAC Dues May 12, 2008

Amended December 14, 2009

Amended November 7, 2011

Amended May 11, 2015

Amended October 8, 2018

Amended March 11, 2019

FRESNO TEACHERS ASSOCIATION
BYLAWS

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REQUIREMENTS FOR CHAPTER GOVERNANCE DOCUMENTS

BYLAWS**Fresno Teachers Association/CTA/NEA****I. NAME AND LOCATION**

Pursuant to the Articles of Incorporation (effective February 1965 and revised October 15, 1990) the official name of this Association shall be the Fresno Teachers Association (FTA), located in Fresno County, and affiliated with the California Teachers Association (CTA) and the National Education Association (NEA).

II. PURPOSES

The primary purposes and powers of this Association are set forth in the FTA Articles of Incorporation and as further defined shall be:

- A. To represent its dues-paying members in their relations with their employer, and to seek to be the exclusive representative of appropriate units of school employees in all matters relating to employment conditions and employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment;
- B. To form a representative body capable of developing group opinion on professional matters to speak with authority for dues-paying members;
- C. To provide an opportunity for continuous study and action on problems of the profession;
- D. To promote cooperation and communication between education support professionals and certificated educators;
- E. To provide a means of representation for its ethnic-minority, dues-paying members;
- F. To promote professional attitudes and ethical conduct among dues-paying members (Refer to NEA Code of Ethics Addendum #1);
- G. To encourage cooperation and communication between the profession and the community; and
- H. To foster good fellowship among dues-paying members.

III. AFFILIATION WITH CTA/NEA

- A. The Fresno Teachers Association shall be a chartered chapter of the California Teachers Association (CTA) (effective March 1951).
- B. The Fresno Teachers Association shall be an affiliate local association of the National Education Association (NEA);

IV. MEMBERSHIP

- A. The primary category of membership shall be Active dues-paying members.
- B. Active dues-paying membership shall be open to any person who is engaged in or who is on limited leave of absence from professional educational work, is an employee of Fresno Unified School District, and whose primary assignment is such as not to hold evaluative responsibility over other employees to such an extent as not to be represented in the negotiations process by the bargaining unit.

