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Constitutional Law - School Board's Exclusive Access Policy to Teacher Mailboxes Does Not Violate Rights of Minority Union. Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 103 S. Ct. 948 (1983).

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CONSTITUTIONAL LAW — School Board's Exclusive Access Policy to Teacher Mailboxes Does Not Violate Rights of Minority Union. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 103 S. Ct. 948 (1983).

In *Perry Education Association v. Perry Local Educators' Association*[1] the United States Supreme Court ruled that a school board could grant the recognized teacher union access to the school system's internal mail facilities while excluding a rival union. The majority[2] held that the mail system was not a public forum to which the rival union had a first amendment[3] right of access,[4] and that the differential treatment was reasonably justified by the official duties of the recognized bargaining representative and by the alternative means of communication available to the minority union.[5] In addition, since the rival union had no fundamental right of access to the mail system, a grant of access to the recognized union did not violate the equal protection clause[6] of the fourteenth amendment.[7]

Justice Brennan dissented[8] from the *Perry Education* holding, maintaining that the first amendment's prohibition against governmental discrimination on the basis of a speaker's message or identity afforded protection of all public property.[9] He argued that the effect of the exclusive access policy was discrimination between union viewpoints, and that there was no legitimate state interest in denying the rival union equal access.[10]

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1. 103 S. Ct. 948 (1983).

2. Justice White delivered the opinion of the Court in which Chief Justice Burger and Justices Blackmun, O'Connor and Rehnquist joined.

3. U.S. CONST. amend. I provides: "Congress shall make no law . . . abridging the freedom of speech . . . ."

4. 103 S. Ct. at 957.

5. *Id.* at 958-59.

6. U.S. CONST. amend. XIV, § 1, provides: "No State shall make or enforce any law which shall . . . deny to any person within its jurisdiction the equal protection of the laws."

7. 103 S. Ct. at 959-60.

8. Justices Marshall, Powell and Stevens joined in the dissent.

9. 103 S. Ct. at 964 (Brennan, J., dissenting).

10. *Id.* at 965-68.

I. STATEMENT OF THE CASE

The Metropolitan School District of Perry Township, Indiana, utilized an interschool mail delivery system in order to transmit official messages to teachers and administrators within its thirteen schools.[11] The district also permitted teachers and, with prior approval, various community organizations to use the mail system for their own benefit.[12] In addition, both teacher unions, the Perry Education Association (PEA) and the Perry Local Educators' Association (PLEA), were allowed access to the system's individual mail slots.[13]

However, in 1977, PLEA challenged PEA's status as the de facto bargaining representative for the Perry Township teachers. PEA won the election, was formally certified as exclusive bargaining representative,[14] and subsequently negotiated a labor contract with the school board.[15] The contract provided that PEA be permitted access to the individual mail slots, that PEA be permitted use of the interschool mail system to the extent the school district incurred no extra expense by such use, and that PEA be the only teacher union granted such rights.[16] However, the contract did not prevent PLEA from using other school facilities to communicate with the teachers.[17]

PLEA brought suit against PEA and the members of the board, seeking access to the mail system. Upon cross-motions for summary judgment, the United States District Court for the Southern District of Indiana entered judgment

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11. Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 103 S. Ct. 948, 951-52 (1983).

12. *Id.* at 952. The Court stated: "Local parochial schools, church groups, YMCA's, and Cub Scout units have used the system." *Id.* at 952 n.2.

13. *Id.* at 952. For a discussion of the growth of collective bargaining among teachers, see generally Gee, *The Unionization of Mr. Chips: A Survey Analysis of Collective Bargaining in the Public Schools*, 15 WILLAMETTE L.J. 367 (1979).

14. *See* IND. CODE § 20-7.5-1-2(*l*) (1976).

15. *Perry Education*, 103 S. Ct. at 952. The contract was renewed in 1980 and was in force at the time of the Supreme Court's decision. *Id.*

16. *Id.* For the exact language of the contract provisions, see Perry Local Educators' Ass'n v. Hohlt, 652 F.2d 1286, 1288 n.1 (7th Cir. 1981).

17. *Perry Education*, 103 S. Ct. at 952. These facilities included school bulletin boards, classrooms after school hours, and, with the prior approval of the school principals, the public address systems. *Id.*

for PEA and the school board members.[18] The court held that there was no material infringement on PLEA's first amendment rights because the mail system was not a public forum and because PLEA had numerous alternative means of communicating with the teachers.[19] The court then held that the exclusive access policy was rationally related to the goal of preserving labor peace within the school system and, therefore, the policy did not violate the equal protection clause.[20]

PLEA appealed and the Seventh Circuit Court of Appeals reversed.[21] The court found that the exclusive access policy was a form of censorship favoring PEA's viewpoint over that of PLEA.[22] The court then held that neither PEA's special legal duties to the teachers nor the mere claim of promoting labor peace justified the school board's differential treatment. Therefore, the policy violated both the equal protection clause and the first amendment as incorporated into the fourteenth.[23] The United States Supreme Court granted certiorari.[24] In a five-to-four decision, the Court reversed the court of appeals and held that PLEA did not have a fundamental right of access to the school's internal mail facilities under either the first amendment or the equal protection clause.[25]

II. BACKGROUND

A. Standard of Review

In scrutinizing the government's justifications for its policy or regulation, the Supreme Court's selection of the stan-

18. Perry Local Educators' Ass'n v. Hohlt, 652 F.2d 1286, 1289 (7th Cir. 1981).
19. *Id.*
20. *Id.*
21. *Id.* at 1302.
22. *Id.* at 1294.
23. *Id.* at 1300.
24. PEA appealed under 28 U.S.C. § 1254(2) (1976) which grants the Supreme Court appellate jurisdiction when a federal court of appeals has held a state statute repugnant to the Constitution, treaties, or laws of the United States. The Court dismissed for want of jurisdiction because the Seventh Circuit Court of Appeals held that certain contract provisions, and not the state statute authorizing them, were unconstitutional. *Perry Education*, 103 S. Ct. at 953-54. The dissent agreed. *Id.* at 960 n.1 (Brennan, J., dissenting).
25. 103 S. Ct. at 960.

dard of review will generally determine the success of the plaintiff's constitutional challenge.[26] The Court's choice is between either strict tests, which usually favor the challenger, or more lenient tests that favor the government.[27] The Court has not, however, clearly defined the boundaries between these tests.

Under a first amendment analysis in which the challenge is based upon government abridgement of one's freedom of speech, the Supreme Court will usually apply a strict or rigorous scrutiny test when the restrictions are directed at speech "intimately related to the process of governing."[28] The government must then show that its justifications are compelling and that its regulation is the least speech-restrictive means of achieving its legitimate goals.[29] In other situations, the Court has applied a lower standard. This looser test requires the government to show that its regulation is no more restrictive than is reasonably necessary to protect the government's interest.[30]

Under an equal protection analysis in which the challenge is based upon discriminatory governmental classifications among groups, the Supreme Court will usually apply a strict scrutiny test when the government's policy discriminates on the basis of the content of the speech or the identity of the speaker.[31] The government must then show a compelling interest for the differential treatment and that the classification policy is the least restrictive means of effecting its goals.[32] When no fundamental right, such as freedom of speech, is involved and the classification is not otherwise sus-

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26. *See* Emerson, *First Amendment Doctrine and the Burger Court*, 68 CALIF. L. REV. 422 (1980).

27. *See* Comment, *Competing Teacher Associations and School Mailboxes: A Right of Equal Access* - Perry Local Educators' Ass'n v. Hohlt, 58 CHI.-KENT L. REV. 1085, 1091-95 (1982).

28. First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765, 786 (1978).

29. *See* Buckley v. Valeo, 424 U.S. 1, 25 (1976).

30. United States Postal Serv. v. Greenburgh Civic Ass'n, 453 U.S. 114, 131 n.7 (1981).

31. *See, e.g.*, Carey v. Brown, 447 U.S. 455 (1980); Police Dep't of Chicago v. Mosley, 408 U.S. 92 (1972).

32. Police Dep't of Chicago v. Mosley, 408 U.S. 92, 98-99 (1972).

pect, the Court will apply the rationale basis test.[33] The government's policy then need only rationally further some legitimate state purpose.[34]

B. Content Neutrality

The content neutrality principle focuses on the first amendment's "central proscription" against government censorship.[35] It allows the government to reasonably restrict speech without regard to the message or identity of the speaker, that is, when the restriction is content-neutral.[36] But this principle presumes a violation of the first amendment when the government's regulation is based on the speaker's message or identity, that is, when the restriction is content-based.[37]

The Supreme Court has previously applied the content neutrality concept when analyzing cases of unequal access to public property. In *Niemotko v. Maryland*[38] the Court reversed a disorderly conduct conviction in a case in which a religious group's permit applications for parking were repeatedly denied while those of other religious organizations had always been granted. In *Police Department of Chicago v. Mosley*[39] the Court invalidated a city ordinance which allowed peaceful picketing near schools if it pertained to a school's labor dispute but prohibited all other peaceful picketing. In *City of Madison Joint School District v. Wisconsin Employment Relations Commission*[40] the Supreme Court invalidated an order which prohibited anyone, except union representatives, from speaking at a public school board meeting on matters subject to collective bargaining. In *Ca-*

33. *See, e.g.*, Loving v. Virginia, 388 U.S. 1 (1967) (classification distinguishing on basis of race is suspect); Oyama v. California, 332 U.S. 633 (1948) (classification distinguishing on basis of national origin is suspect).

34. *See* San Antonio School Dist. v. Rodriguez, 411 U.S. 1, 17 (1973).

35. *See, e.g.*, Board of Educ. v. Pico, 457 U.S. 853, 877 (1982) (Blackmun, J., concurring).

36. *See* Stone, *Restrictions of Speech Because of its Content: The Peculiar Case of Subject Matter Restrictions*, 46 U. CHI. L. REV. 81, 81-83 (1978).

37. *Id.*

38. 340 U.S. 268 (1951).

39. 408 U.S. 92 (1972).

40. 429 U.S. 167 (1976).

rey v. Brown[41] the Court held unconstitutional a state statute which prohibited all peaceful picketing on public streets and sidewalks in residential neighborhoods, but which allowed peaceful labor picketing. Finally, in *Widmar v. Vincent*[42] the Court struck down a regulation which made a university's facilities generally available for the activities of registered student groups but denied them to a registered religious group. It must be noted, however, that each of the above cases also involved restricted access to public forums.

C. Public Forum Doctrine

The Supreme Court has evaluated limitations on access to public property on the basis of the property's character. This "public forum"[43] analysis has fashioned three categories, each with a varying degree of permissible restrictions on the freedom of speech. The traditional public forum is property, such as "streets, sidewalks, parks, and other similar public places,"[44] which is available for use by the general public and which has, historically, been used for the exercise of first amendment rights.[45] Content-neutral regulations of the time, place, and manner of expression are enforceable in these forums only when such restrictions are narrowly drawn to serve a significant governmental interest and permit access to other adequate alternative channels of communication.[46] Content-based regulations can be enforced only when they are "finely tailored to serve substantial state interests, and the justifications offered for any distinctions [they draw] must be carefully scrutinized."[47]

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41. 447 U.S. 455 (1980).

42. 454 U.S. 263 (1981).

43. *See generally* Cass, *First Amendment Access to Government Facilities*, 65 VA. L. REV. 1287 (1979); Horning, *The First Amendment Right to a Public Forum*, 1969 DUKE L.J. 931; Kalven, *The Concept of the Public Forum*: Cox v. Louisiana, 1965 SUP. CT. REV. 1; Newell, *Use of Campus Facilities for First Amendment Activity*, 9 J. C. & U. L. 27 (1982-83); Stone, *Fora Americana: Speech in Public Places*, 1974 SUP. CT. REV. 233.

44. Amalgamated Food Employees Union Local 590 v. Logan Valley Plaza, Inc., 391 U.S. 308, 315 (1968).

45. Hague v. C.I.O., 307 U.S. 496, 515 (1939) (opinion of Roberts, J.).

46. *See, e.g.*, United States Postal Serv. v. Greenburgh Civic Ass'n, 453 U.S. 114, 132 (1981).

47. Carey v. Brown, 447 U.S. 455, 461-62 (1980).

The second category contains more places and more permissible restrictions than the first. The limited public forum is property generally open to the public for communicative purposes or "purposes closely linked to expression."[48] These forums include public schools,[49] public governmental meetings,[50] state fairs,[51] municipal theaters,[52] public libraries,[53] and other similar places. Limited public forums may be restricted by the same rules concerning content-neutral and content-based regulations that are applicable to traditional public forums.[54] If created for a limited purpose, these forums may also be restricted to the physical areas used to advance that purpose,[55] for discussion of subjects related to the purpose,[56] or to use by groups associated with the purpose.[57] The manner of the speech must not be "incompatible with the normal activity" of the particular property.[58]

Public property which is neither of the traditional nor of the limited forum character is designated a nonpublic forum. This category is the most removed from first amendment protection. These forums include postal letterboxes,[59] military bases,[60] advertising space on public transits,[61] and jailhouse grounds.[62] The state may preserve the property for its lawfully dedicated use, including a use specifically for communicative purposes,[63] by prohibiting any form of commu-

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48. L. TRIBE, AMERICAN CONSTITUTIONAL LAW 690 (1978).

49. *See* Widmar v. Vincent, 454 U.S. 263 (1981); Tinker v. Des Moines Indep. School Dist., 393 U.S. 503 (1969).

50. *See* City of Madison Joint School Dist. v. Wisconsin Pub. Employment Relations Comm'n, 429 U.S. 167 (1976).

51. *See* Heffron v. International Soc'y for Krishna Consciousness, Inc., 452 U.S. 640 (1981).

52. *See* Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546 (1975).

53. *See* Brown v. Louisiana, 383 U.S. 131 (1966).

54. Widmar v. Vincent, 454 U.S. 263, 269-70 (1981).

55. *Id.* at 273 n.5 (1981).

56. *Id.*

57. *Id.*

58. Grayned v. City of Rockford, 408 U.S. 104, 116 (1972).

59. *See* United States Postal Serv. v. Greenburgh Civic Ass'n, 453 U.S. 114 (1981).

60. *See* Brown v. Glines, 444 U.S. 348 (1980); Greer v. Spock, 424 U.S. 828 (1976).

61. *See* Lehman v. City of Shaker Heights, 418 U.S. 298 (1974).

62. *See* Adderly v. Florida, 385 U.S. 39 (1966).

63. Unites States Postal Serv. v. Greenburgh Civic Ass'n, 453 U.S. 114, 130 n.6 (1981).

nication in a reasonable and content-neutral manner.[64]

III. THE *PERRY EDUCATION* OPINIONS

A. The Majority

Writing for the majority in *Perry*, Justice White focused on the character of the property and the status of each union. "The First Amendment's guarantee of free speech applies to teachers' mailboxes as surely as it does elsewhere within the school,"[65] but the right of access to a particular area will depend upon the nature of the forum.[66] The Court concluded that the school's mail system is a nonpublic forum because: the system could be closed to all but official business; it was, in fact, not held open to the general public; and, its function was to facilitate internal communication of school-related matters.[67] The use of the system by private community organizations did not make the property a limited public forum.[68] These outside groups needed prior permission which was not shown to have been granted as a matter of course.[69]

PLEA's prior unrestricted access to the system did not make the property a limited public forum generally open for use by school employee organizations.[70] The previous equal-access policy was consistent with the district's preservation of the facilities for school-related business because both unions represented teachers and had legitimate reasons for such use.[71] The subsequent exclusive-access policy was based on the present status of each union rather than on their views.[72] "Implicit in the concept of the nonpublic forum is the right to make distinctions in access on the basis of subject matter and speaker identity."[73] The school board

64. *Id.* at 131 n.7.

65. Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 103 S. Ct. 948, 954 (1983).

66. *Id.*

67. *Id.* at 955-56.

68. *Id.* at 956.

69. *Id.* The Court also stated that, even if the school board's previous selective granting of access to the system created a limited public forum, the constitutional right of access would extend only to similar community organizations and not to a teacher union. *Id.*

70. *Id.*

71. *Id.* at 956-57.

72. *Id.* at 957.

73. *Id.*

merely permitted PEA, as exclusive bargaining representative for all district teachers, to use the mail system for its school-related business. There was "no indication that the school board intended to discourage one viewpoint and advance another."[74]

The Court then determined whether the school board's status distinction was "reasonable in light of the purpose which the forum at issue serves."[75] Access to the mail system enabled PEA to perform the "continuing and difficult" tasks associated with collective bargaining and labor representation; PLEA had no such "official responsibility."[76] The differential access may also have ensured labor peace within the schools.[77] Furthermore, PLEA had access to substantial alternative channels of communication which it had not shown to be inadequate.[78] Therefore, the differential access provided PEA and PLEA was a reasonable means of preserving the mail system for school-related business.[79]

The Supreme Court also rejected the argument that differential access to a nonpublic forum violated the equal protection clause.[80] Since PLEA had no right of access to the mail system, the grant of such access to PEA did not burden a fundamental right of PLEA.[81] Thus, "[t]he school district's policy need only rationally further a legitimate state purpose. That purpose is clearly found in the special responsibilities of an exclusive bargaining representative."[82]

B. The Dissent

Justice Brennan dissented,[83] focusing on the effect of the

74. *Id.*
75. *Id.* at 957 (footnote omitted).
76. *Id.* at 958-59.
77. *Id.* at 959.
78. *Id.* The Court noted the alternative channels and the fact that all unions would be treated equally during elections, stating: "These means range from bulletin boards to meeting facilities to the United States mail. During election periods, PLEA is assured of equal access to all modes of communication." *Id.*
79. *Id.* at 958.
80. *Id.* at 959.
81. *Id.*
82. *Id.* at 960 (citation omitted).
83. Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 103 S. Ct. 948, 960 (1983) (Brennan, J., dissenting).

exclusive access policy. He maintained that the first amendment prohibits censorship in the form of viewpoint discrimination in any forum.[84] The dissent argued that PEA's status was irrelevant when determining the existence of governmental discrimination, and that intentional viewpoint discrimination could be inferred from the effect of the exclusive access policy and other facts.[85] The court of appeals found that the access policy favored a particular viewpoint on labor relations.[86] The only logical reason for PEA to negotiate an exclusive access provision was to deny rival unions access to an effective means of communication.[87] The majority's labor peace justification itself indicates an intent to suppress opposing viewpoints.[88]

The dissent then subjected the justifications for the policy to rigorous scrutiny.[89] Justice Brennan acknowledged the importance of PEA's status as exclusive bargaining representative and the state's interest in efficient communication between labor representatives and their members.[90] Despite this, he found these considerations to be insufficient justification for the exclusive-access policy.[91] He determined this policy to be "overinclusive" as a means of serving the state's interest because PEA's use was not strictly limited to performance of its special representative duties. He also considered the policy to be "underinclusive" because outside community organizations with no special duties to the teachers were permitted to use the mail system.[92] Justice Brennan found the policy invalid because it furthered no substantial state interest.[93] There was neither evidence that the previous

84. *Id.* at 961.
85. *Id.* at 965.
86. *Id.*
87. *Id.* at 966.
88. *Id.*
89. *Id.*
90. *Id.*
91. *Id.*
92. *Id.* The dissent noted that even if the access policy were more closely tailored in these two respects, "the fit would still be questionable, for it might be difficult - both in practice and in principle - effectively to separate 'necessary' communications from propaganda." *Id.* (quoting Perry Local Educators' Ass'n v. Hohlt, 652 F.2d 1286, 1300 (7th Cir. 1981)).
93. *Perry Education*, 103 S. Ct. at 967 (Brennan, J, dissenting). "While the [school] board may have a legitimate interest in granting [PEA] access to the system,

equal access policy affected disruption within the schools nor an indication that any such labor instability would result.[94] Moreover, the mere existence of alternative channels of communication, far inferior channels in this case, did not support an abridgement of one's freedom of speech.[95] Therefore, the differential access provided PEA and PLEA violated the first amendment.[96]

IV. ANALYSIS

The majority's rigid approach to the issue of union access to school communication facilities precludes examination of the underlying realities. In its public forum analysis, the Court argued that the mail system was properly opened to only PEA because PEA "assumed an official position in the operational structure of the District's schools."[97] While it is true that PEA was the recognized bargaining representative in the district, such status should not be characterized as an "official position." The exclusive access policy did not accompany certification as collective bargaining agent. Instead, it resulted from negotiation of a labor contract.[98] Had such a provision not been agreed upon, access to the school's mail facilities could have been denied to PEA.[99] Therefore, the policy was not justified by PEA's "official" status. Rather, PEA's status was "official" because of the policy.

Since PEA's status itself did not demand a right of access, it is clear that the school board's grant of exclusive access was an abridgement of PLEA's freedom of speech based on the rival union's identity. The board's selective access policy amplified PEA's speech by discriminatorily opening a channel of communication to the union, while repressing

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it has no legitimate interest in making that access exclusive by denying access to [PLEA]." *Id.*

94. *Id.* at 968. "In addition, there is no reason to assume that [PLEA's] messages would be any more likely to cause labor discord when received by members of the majority union than [PEA's] messages would when received by the [minority union]." *Id.*

95. *Id.* at 968-69 n.13.

96. *Id.* at 969.

97. Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 103 S. Ct. 948, 957 n.9 (1983).

98. *Id.* at 952.

99. *See id.* at 957.

PLEA's speech by denying it equal access.[100] The troublesome fact in *Perry Education* is that the school board was not motivated by a desire to censor opposing views but rather only acquiesced in PEA's contract demands.[101] This fact determined the majority's choice of the lower standard of review and, ultimately, the outcome of the case.[102] However, by agreeing to an access provision motivated by a desire to repress speech, the school board constructively acknowledged its intent to engage in de facto viewpoint discrimination. Under these circumstances, the compelling interest standard of review is required.[103]

Nevertheless, the crucial inquiry prompted by Justice White's majority opinion is whether or not the public property at issue constitutes a public forum.[104] If the property is a nonpublic forum, the government may grant access for expression to some groups while denying it to others as long as the state shows a reasonable basis for the differential treatment and there is no proof of an overt discriminatory motivation by the state.[105]

The Supreme Court's focus could have three important consequences for the collective bargaining process in the public school system. First, school boards may use nonpublic forums as bargaining tools. In exchange for certain concessions, boards could grant access to teacher mailboxes or an interschool mail system, provide an empty room for office purposes or grant telephone privileges. Boards could also strictly regulate the use of these forums or allow unrestrained use. Second, incumbent unions could use such access to entrench their representative positions. "[T]he teachers inevitably will receive from [the incumbent union] self-laudatory descriptions of its activities on their behalf and will be denied the critical perspective offered by the [rival union]."[106] Third, rival unions, unless monetarily power-

100. *Id.* at 966 (Brennan, J., dissenting).

101. *See* 103 S. Ct. at 957; *id.* at 968 n.12 (Brennan, J., dissenting).

102. *See supra* note 26 and accompanying text.

103. 103 S. Ct. at 966 (Brennan, J., dissenting). *See also* Perry Local Educators' Ass'n v. Hohlt, 652 F.2d 1286, 1293-96 (7th Cir. 1981); Comment, *supra* note 27.

104. *See Perry Education*, 103 S. Ct. at 955.

105. *Id.* at 955, 957.

106. Perry Local Educators' Ass'n v. Hohlt, 652 F.2d 1286, 1296 (7th Cir. 1981).

ful,[107] may abandon attempts to challenge the incumbents. Alternative channels of communication, such as telephoning, public mailing, or notice posting, are more expensive, more time consuming, and more likely to be missed than the channel used by the incumbent union.[108]

V. CONCLUSION

In *Perry Education Association v. Perry Local Educators' Association*[109] the United States Supreme Court held that a school board could grant the recognized teacher union exclusive access to the school system's internal mail facilities. The Court deferred to the wisdom of the school board. It narrowly focused on the character of the public property and passively scrutinized the justifications for the exclusive access policy. The likely consequences of such deference are de facto viewpoint discrimination and less competition among and examination of collective bargaining units.

However, these effects can be prevented while at the same time allowing local school districts the discretion to provide or deny access to labor unions. State legislatures can enact statutes guaranteeing teacher unions equal treatment with regard to rights of access.[110] This equal access policy promotes uniformity within school districts and resolves the important constitutional issues addressed in *Perry Education*.

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107. *See generally* Gee, *supra* note 13; Levine & Lewis, *The Status of Collective Bargaining in Public Education: An Overview*, 33 LAB. L.J. 177 (1982).

108. Perry Local Educators' Ass'n v. Hohlt, 652 F.2d 1286, 1299 (7th Cir. 1981).

109. 103 S. Ct. 948 (1983).

110. *See, e.g.*, CONN. GEN. STAT. § 10-153d(b) (1983), which provides: "All organizations seeking to represent members of the teaching profession shall be accorded equal treatment with respect to access to . . . mail boxes and school facilities . . . ."