

## Reilly Scholarship

Winners of the 2019 John J. Reilly Memorial Scholarships have been announced.

The scholarships are awarded annually to help defray the cost of a college education for outstanding children of NACST members.

The students will receive \$1000 in each of their four years of study, making each scholarship a \$4000 value over each student's course of collegiate studies.

Congratulations to the winners of the 2019 Reilly Scholarship:

**Theresa M. Fister,  
SLATA - St. Louis**

**Matthew D. Purcell,  
ACT - Philadelphia**

The scholarships are awarded in remembrance of John J. Reilly, the founding President of NACST.

## The *Chicago Bishop Decision*

In 1974 and 1975, 46 lay teachers at the Archdiocese of Chicago's Quigley High School Seminary North [which in 1970 opened enrollment to students other than those studying for the priesthood] held a representational election and voted to unionize, under the jurisdiction of the National Labor Relations Board [NLRB]. At the same time, 190 lay teachers in five high schools in the Diocese of Fort Wayne/South Bend also voted in favor of unionization. The NLRB certified the results and ordered the schools to collectively bargain with the teacher unions. The schools refused to negotiate claiming that: 1) the NLRB did not have jurisdiction over the operation of the schools; and, 2) the order to bargain collectively was a violation of the religion clauses of the First Amendment. The NLRB sued the schools to enforce its order.

In prior rulings, the NLRB had asserted that it had jurisdiction over schools which were "religiously associated," but not over those which were "completely religious." The Chicago and Fort Wayne/South Bend schools were recognized by the NLRB as "religiously associated" in that they taught both religion and secular subjects, with the Fort Wayne/South Bend high schools even accredited by the state of Illinois. At the federal appellate level the court sided with the schools, stating that the NLRB did not have jurisdiction over the schools since it would be an infringement on the Free Exercise and Establishment Clauses of the First Amendment. The NLRB appealed that decision to the US Supreme Court.

*cont'd on p. 3*



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*From the President ...*

## LABOR DAY 2019: SOCIAL JUSTICE AND A CONTENTED PEOPLE

This year's Labor Day Statement by the US Bishops highlights 2019 as being the 100<sup>th</sup> anniversary of the "Bishops' Program for Social Reconstruction."

In 1919, the Bishops recommended a series of "practical and moderate" reforms because "the only safeguard of peace is social justice and a contented people."

The author of the Bishops' 2019 Labor Day Statement, Bishop Frank J. Dewane, Chairman of the USCCB's Committee on Domestic Justice and Human Development, puts forth themes from Catholic social teaching to prove the point. Solidarity and Unions are featured prominently among these themes. Bishop Dewane cites a speech Pope Francis delivered to the Workers Association in 2018. He paraphrases the Pope's words: "Unions are a way for workers . . . to negotiate for just wages, benefits, and working conditions, and to look after the rights of vulnerable workers, including those with injuries and disabilities." A direct quote from the Pope: "there is no good society without a good union."

With these words in hand, teachers who labor in the vineyards of the Church need the employer Church's blessing when they seek to form a Teacher Association which will make their work lives just and make the teacher and his/her family more "contented."

While being paid a just wage and being protected by medical and other insurance plans are extremely important, there are working conditions that factor in to make an employee contented in his/her job. There need to be fair and equitable treatment, a process to resolve complaints and, above all, job security.



In Bishop DeWane's conclusion, he comes back to the "Bishops' Program" which seeks to reinforce the Christian view of work, using the treasury of the Church's social teaching. He asks that "new processes" be considered "that can build up justice in the workplace over time."

My conclusion is that there is no better time for justice in the workplace than now.

I wish everyone a happy and productive school year.

Let the National Association of Catholic School Teachers know how we can be of assistance to you

**Chicago Bishop** *from p.1*

In March 1979, the Supreme Court ruled that the NLRB did not have jurisdiction. The Court's decision avoided issues related to the First Amendment, basing the ruling on the intent of federal lawmakers in the passage of the National Labor Relations Act [which established the NLRB] in 1935. The Court's review of the legislative history and commentary found no statement of intent to include religious schools in the NLRA. Consequently, the Court ruled that, without the clear statement of intent, the NLRB did not have jurisdiction over the schools.



*from the editor ...*

**Chicago Bishop and Organizing**

Since the 1960's lay Catholic school teachers have unionized, mostly in the Northeast and Midwest, areas with a history of strong union activity and participation. The impetus for unionization has always been the will and actions of Catholic school teachers. Recognition of the school unions was made by diocesan and school administrators either in response to teachers' actions or in, in fewer cases, compliance with Roman Catholic social justice teaching.

For a few years in the mid-70's teachers had the hope that federal labor legislation would provide an avenue of protection for employees of the schools. The 1979 *Catholic Bishop* decision excluded Catholic school teachers from the protections/benefits of the National Labor Relations Act. Recognition of the school unions was made by Church leaders in schools and dioceses, in response to teacher activity or simply in compliance with Catholic social justice teaching. In a small number of states, Catholic school teachers had/have the protection of state laws.

Even after the establishment and recognition of a union, Catholic school teachers are subject to the decisions of local Ordinaries and school administrators. The five Fort Wayne/South Bend schools in Catholic Bishop successfully unionized after *Chicago Bishop*, and successfully negotiated a contract. Less than ten years later the diocese withdrew recognition of the union. The teachers then had no recourse to seek remedy under either state or federal labor legislation. After successfully representing teachers in Boston, the Archdiocese of Boston withdrew recognition of BATA [the Boston Archdiocesan Teachers Association]. After more than three decades of activity, the Scranton Diocese withdrew recognition of SDACT [the Scranton Diocesan Association of Catholic School Teachers].

In the first thirty years of organizing among Catholic school teachers several state government institutions have exercised jurisdiction over labor relations in the schools. When teachers in the Archdiocese of New York first organized the Archdiocese agreed to oversight by the New York State Labor Board. In 1997, the N.J. Supreme Court unanimously ruled that Catholic school teachers are covered under the state's constitution.

Ultimately, of course, unionization efforts in any arena are dependent upon the will and action of teachers. Most U.S. employees have the option to seek remedies against unfair labor practices under the National Labor Relations Act.. Catholic school teachers do not.

Until such time as legislation to include Catholic school teachers under the NLRA or another case comes before the U.S. Supreme Court to reverse *Catholic Bishop*, Catholic school teachers cannot trust that diocesan and school administrators will act in accord with Catholic social justice teaching. Catholic school teachers' actions are the way that Catholic social justice teaching will be put into effect.

## Weingarten Rights

In 2004 the NLRB ruled that employees in non-union workplaces did have the right to have another person present when the employees were called to “investigatory interviews” by employers, i.e. meetings which could lead to disciplinary action.

The decision was based on the 1975 U.S. Supreme Court *Weingarten* ruling, which held that unionized employees had the right to have to have a union representative when called to meetings with employers.

“Investigatory interviews” deal with subjects such as: violation of work procedures, absenteeism, insubordination, poor attitude, violation of safety rules/accidents, work performance, damage to property, falsification of records, lateness, drinking, drugs.

Representation for due process is a key feature of union contracts.

Under the Weingarten Rule, teachers in unionized Catholic schools have the right to bring a union representative to meetings with administrators which could lead to disciplinary action.

Teachers also have the right to stop a meeting, which at first seemed not to be disciplinary in nature, and only resume, if it becomes clear that the meeting is of a disciplinary nature, after a union representative is present.

### ***NACST Convention/Conference***

October 11-13, 2019 Buffalo, NY

Keynote Speaker **Dr. Charles Russo**

***University of Dayton PhD Program in Educational Leadership***

***The NLRB v. Catholic Bishop of Chicago [1979]***

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