

StudentsMatter

Court Gives Green Light To Groundbreaking Education Lawsuit

In a November 9, 2012, ruling made public this week, Judge Rolf M. Treu of the Los Angeles Superior Court gave a green light to a groundbreaking lawsuit, *Vergara v. California*, challenging California's teacher tenure and dismissal statutes as unconstitutional. The court rejected motions to dismiss Plaintiffs' complaint filed by the State of California and Alum Rock Union School District, declaring that Plaintiffs sufficiently "allege[d] facts that the Challenged Statutes are unconstitutional on their face or as applied."

Nine California public school children, ages seven to sixteen, filed a lawsuit in May 2012 challenging five statutes of the Education Code that violate the Equal Protection Clause of the California Constitution. The laws at issue infringe on the students' fundamental right to equal educational opportunity because they result in the employment and retention of grossly ineffective teachers who should not be teaching. Students who are unfortunate enough to be assigned to these grossly ineffective teachers receive a substantially inferior education that causes the students significant and longstanding harm. As Judge Treu found, Plaintiffs have alleged "a causal connection between 'grossly ineffective' teachers and student success."

The State Defendants and Alum Rock Union School District asked the court to dismiss Plaintiffs' complaint for failure to state a cognizable constitutional claim. Defendants argued that Plaintiffs do not have a constitutional right to equal educational quality. They also argued that there can be no constitutional violation because the number of grossly ineffective teachers in the California public school system is relatively small.

At the hearing on Friday, Judge Treu rejected Defendants' arguments. Judge Treu subsequently issued an order denying Defendants' motions and allowing the case to proceed.

Below are some key findings from Judge Treu's order:

- Plaintiffs have sufficiently pleaded a facial constitutional challenge: "Plaintiffs allege the Challenged Statutes, alone and in conjunction with each other, result in similarly situated children having unequal access to education because some students are assigned to 'grossly ineffective' teachers. These are sufficient facts to allege a facial equal protection challenge to the Challenged Statutes arising out of their actual procedural scheme."
- Plaintiffs have sufficiently pleaded an as-applied constitutional challenge: "Plaintiffs allege that when district-wide layoffs occur, schools serving the largest numbers of minority and economically disadvantaged students are more likely to lose teachers due to the Seniority-Based Reduction Statute and that 'grossly ineffective' teachers are then assigned to these schools because these teachers are transferred to other schools rather than undergoing dismissal pursuant to the Dismissal Statutes. These are specifically pled facts sufficient to

allege an as applied equal protection challenge to the Challenged Statutes based on the alleged denial of basic equality of educational opportunities.”

- Plaintiffs are not attacking teachers’ due process rights: “[W]hether the Challenged Statutes comply with the Due Process rights of teachers is a separate and distinct inquiry from whether they comply with the Equal Protection rights of students.”
- Plaintiffs properly seek to hold both the State Defendants and the school districts responsible: “[R]esponsibility for public education lies with the State, even though school districts are agents for local operations. . . . [But] [t]he Challenged Statutes reveal that the school districts share in the responsibility for public education.”

The State Defendants and Alum Rock have been ordered to answer the Complaint by November 29, 2012. (Defendants Los Angeles Unified School District and Oakland Unified School District have already filed their answers.) A case management conference will be held on February 22, 2013. A trial date has not yet been set.