

# Students Matter

Defending students' rights through impact litigation

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## **Students Matter's Groundbreaking Education Equality Case, *Vergara v. California*, Headed to Trial**

### **Court Rules Against Defendants' Motions for Summary Judgment; Trial Set to Begin on January 27, 2014**

**LOS ANGELES, CA** – Today, in a victory for California students, the California Superior Court for Los Angeles County issued a ruling in *Vergara v. California*, allowing the case to proceed to trial. [\*Vergara v. California\*](#) is a groundbreaking lawsuit that seeks to strike down five California statutes that deprive students of their fundamental right to education. In its decision, the Court rejected Motions for Summary Judgment, filed by State Defendants and Intervenor, and agreed with Plaintiffs that there is enough evidence for the case to move forward to trial. The Court has rejected every effort by the Defendants to avoid trial and has allocated 20 court days for the *Vergara v. California* trial, beginning on January 27, 2014.

During today's hearing, Judge Rolf Treu made final his tentative order denying Defendants and Intervenor Motions for Summary Judgment. The ruling can be found [here](#).

"We have collected a mountain of evidence and are very pleased that the Court's decision today gives us the opportunity to present this evidence at trial," said Plaintiffs' co-lead counsel Theodore J. Boutros. "During trial, we will demonstrate that the challenged statutes significantly harm students by violating their constitutional right to equality of education. Through testimony from Superintendents, principals, teachers, parents, students, and human resources officials across the state, as well as compelling data from leading education experts, we will prove that the statutes force school districts to keep failing teachers in the classroom year after year, with devastating consequences for students."

The Plaintiffs—nine public schoolchildren from all over California ranging in age from eight to seventeen years old—have amassed a mountain of evidence demonstrating that the statutes cause grave and irreparable harm to students. Highlights from the evidence include:

- **Ineffective teachers are entrenched in California's public school system.** The Superintendents of many school districts affirm that their districts are beleaguered by grossly ineffective teachers and attribute the continued employment of these teachers to the challenged statutes. Both the State Defendants and the teachers' unions concede that students in California are being taught by ineffective teachers.
- **Minority and low-income students are disproportionately likely to be taught by grossly ineffective teachers.** Education experts, school districts, the State Defendants, and the teachers' unions all recognize that minority and low-income students are far more likely to have ineffective teachers. School districts say this has devastating consequences for the students who are most in need of effective teachers.
- **The Permanent Employment Statute does not give school districts enough time to make critical tenure decisions.** Many school districts say they are unable to determine whether a teacher is effective before the deadline mandated by the statute, and thus have granted tenure to ineffective teachers. If a district is unable to reach a decision by the deadline, the teacher is *automatically* reelected for the next school year as a *permanent* employee of the district. Even the State Defendants agree that the probationary period should be longer.
- **The Dismissal Statutes have forced school districts throughout California to continue employing grossly ineffective tenured teachers.** School districts across California view the dismissal process as unworkable and unusable. The process takes an inordinate amount of time and costs the districts precious funds that should be spent directly on students—and often still doesn't succeed. In the past 10 years, the Commission on Professional Competence has allowed California's 1,052 school districts to dismiss only 91 teachers in total—less than 10 per year out of nearly 275,000 teachers statewide. The State Defendants admit that dismissing a tenured teacher in California is “impossible.”
- **The Last-In, First-Out (LIFO) Statute requires school districts to leave grossly ineffective teachers in the classroom while laying off exceptional teachers.** School districts say that LIFO's mandated reverse-seniority layoffs prevent them from considering teachers' effectiveness or the impact the layoffs will have on the well-being of students. The State Defendants agree that extensive layoffs of excellent teachers is a significant problem in California.

The Defendants in the case include the State of California, the State Superintendent, the California Department of Education, and the State Board of Education. The unions who intervened to defend the statutes are the California Teachers Association and the California Federation of Teachers.

Plaintiffs' legal team is led by Theodore B. Olson and Theodore J. Boutrous, Jr., who recently argued *Hollingsworth v. Perry* in front of the U.S. Supreme Court, successfully invalidating California's ban on same-sex marriage, Proposition 8. The trial team includes Gibson, Dunn & Crutcher attorneys Marcellus McRae, Theane Evangelis, Enrique Monagas and Joshua Lipshutz.

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*Students Matter is a national nonprofit organization dedicated to sponsoring impact litigation to promote access to quality public education. Learn more at [studentsmatter.org](http://studentsmatter.org).*