

### 1. What is the purpose of the lawsuit?

Students, teachers, families and the community all win when children receive a motivating, inspiring education. Under the current system, too many students lose because some are trapped with failing teachers. *Vergara v. California* seeks to affirm the fundamental constitutional right to a quality education and simultaneously modernize California's education system and the teaching profession.

### 2. What is the ideal outcome of the case?

The ideal outcome in *Vergara v. California* is for the court to rule these laws unconstitutional and provide an opportunity for school districts and the legislature to create new policies affirming the critical importance of equal access to effective teachers and prioritizing students' educational rights. It's common sense: students learn more with effective teachers, so we should make sure there's an effective teacher in every classroom across the state. Our laws shouldn't get in the way of an effective education; they should encourage it.

### 3. Why pursue change through the courts and not through the legislature?

The opportunity to get a good education in California is every child's fundamental right. The system we have now is clearly failing far too many children, but gridlock in the legislature has prevented lawmakers and district leaders from making common sense, reasonable changes to ensure California puts our children's education first.

It's common sense: our laws shouldn't get in the way of providing every child with an effective education; they should encourage it. And as Californians, we should demand it. We owe it to the next generation to make sure an excellent teacher is in every classroom. If our laws undermine that mission, then we need to change them. The courts can ensure that the voices of parents and students are heard and that decisions affecting the future of our children are made based on facts, not politics.

### 4. Who are the attorneys representing the plaintiffs?

The plaintiffs are represented by a team of attorneys from Gibson, Dunn & Crutcher, including: former U.S. Solicitor General Theodore B. Olson, who successfully represented Plaintiffs in *Hollingsworth v. Perry*, the federal case that struck down Proposition 8 and restored marriage equality to California; Theodore J. Boutros, who has been named one of the 100 best lawyers in California for eight consecutive years; and Marcellus Antonio McRae, a former Assistant U.S. Attorney in Los Angeles, who had a 100 percent conviction rate at trial. Plaintiffs' attorneys count among the very best in the country.

### 5. Who is the judge on the case? Why isn't it a jury trial?

The judge for *Vergara v. California* is Hon. Rolf M. Treu (pronounced "true"). The case has been a bench trial from the beginning, due to the complex nature of the issues.

## **6. Who are the plaintiffs?**

Plaintiffs are nine school-aged children with a diverse range of backgrounds and aspirations. They hail from cities and towns across the State, including Los Angeles, Pomona, San Jose, and Oakland. Some Plaintiffs attend elementary school, while others are in middle school and high school. Yet Plaintiffs share one important trait: like many other California schoolchildren (and their parents), they *all* fear the substantial risk that they will be assigned to one or more grossly ineffective teachers in the California public school system. Our plaintiffs believe that every student, no matter where they come from or what challenges they face, deserves an equal opportunity to truly learn and succeed.

## **7. Will the case affect teachers' collective bargaining rights?**

No, the *Vergara* case does not infringe on teachers' collective bargaining rights. The lawsuit is working at the state level to strike down the challenged statutes as unconstitutional. A ruling in favor of the plaintiffs would establish that laws affecting teachers cannot violate students' constitutionally protected right to have equal access to quality education. It's common sense: we should reward, respect and celebrate good teachers and hold accountable those who are failing our students.

## **8. What do you believe is the alternative to "last-in, first-out" or LIFO practice of basing layoffs on reverse-seniority?**

As illustrated in most other states, seniority should be one of several factors taken into consideration during layoffs decisions. Ignoring effectiveness in layoffs altogether ends up pushing out excellent teachers that we should be fighting to keep in the classroom.

The LIFO law forces schools to get rid of passionate, motivating newer teachers and keep ineffective teachers instead, just because they have seniority. Every student deserves to have a passionate, motivating teacher in every classroom. By focusing on one problem at a time, and making responsible, reasonable changes, we can start to make a real difference in kids' lives.

## **9. What happens if the court rules in favor of the *Vergara v. California* plaintiffs?**

A ruling in favor of the plaintiffs would strike down as unconstitutional the five statutes challenged by the lawsuit, creating an opportunity for California to embrace a new system that gives every child a passionate, motivating and effective teacher and gives effective teachers the respect and rewarding careers they deserve. Many other states, pilot districts and charter schools are already on their way down this path and have seen significant increases in student learning and success.

There is no financial reward to plaintiffs if they prevail.

**10. If plaintiffs prevail, how do we know that the new system will actually be better than what we have now?**

We know the current system is failing students every single day. A victory for the plaintiffs will establish the critical importance of effective teachers to a quality education. All new teacher employment laws will have to comply with the court's ruling and respect students' fundamental constitutional right to equal access to effective teaching. A victory for the *Vergara* plaintiffs will create an opportunity for California to embrace a new system that gives every child a passionate, motivating and effective teacher and gives effective teachers the respect and rewarding careers they deserve. The new standard for teacher quality will ensure a better learning environment for all California students.

There are a lot of problems in our education system right now, and there's no silver bullet that can fix all of them at once. But we need to get back to basics, starting with a passionate, motivating teacher in every classroom. By focusing on one problem at a time, and making responsible, reasonable changes, we can start to make a real difference in kids' lives.

**11. If plaintiffs win, what will it mean for California families and students?**

All of California's families and students will benefit from an education system that gives all students, no matter where they come from or what challenges they face, an equal opportunity to learn from effective teachers. An effective teacher in every classroom will help turn California's failing education system around and help our students once again lead the nation in educational success.

**12. How do you anticipate these changes affecting California's public school system performance compared to other states and on what evidence are those projections based?**

We anticipate the academic performance of California students, especially California's low-income and minority students, will improve. It's simple: students learn more with effective teachers. Abundant scientific research shows the direct connection between teacher effectiveness and student learning. We've also heard testimony from administrators all over the state explaining how much the permanent employment, seniority and dismissal laws hamper their ability to provide every child effective teachers.

**13. What happens next in the case?**

The 20-day trial for *Vergara v. California* begins on January 27, 2014. For the latest information on the case, visit the Students Matter website: [studentsmatter.org](http://studentsmatter.org).

**14. When do you expect a decision in the case?**

We expect a decision in the case by early June 2014.

**15. How does California compare nationally regarding efforts to improve teacher effectiveness?**

As recently as October 2011, the National Council on Teacher Quality published an examination of states showing a national trend towards improving teacher effectiveness by strengthening teacher evaluations and structuring teachers' career ladders to promote excellence. In just a short time span from 2009 to 2011, 23 states started designing teacher evaluation standards that require objective evidence of student growth. California is not on that list. In fact, California has made no meaningful changes to improve teacher effectiveness. Based on the overwhelming majority of research emphasizing the utmost importance of teacher quality in educational effectiveness, other states are acknowledging the changes that need to be made to improve their ailing systems by emphasizing the importance of teacher effectiveness.

California needs to get back to basics, starting with a passionate, motivating teacher in every classroom. If the current system puts ineffective teachers in front of our students, we have a responsibility to do what's right and stand up for those students.

**16. How do the proposed 2014 ballot measures related to teacher quality affect the case?**

Both *Vergara v. California* and the proposed education reform ballot measures address similar challenges facing California's education system. However, the case and the proposed measures are separate efforts that are being executed independently. That said, because a decision in *Vergara* is expected by June 2014, none of the proposed November ballot measures will impact the case.

**17. Isn't this just an attack on teachers' union?**

Despite what opponents of the case claim, *Vergara v. California* is about creating an opportunity for California to change a failing system so that every child has a passionate, motivating and effective teacher and effective teachers have the respect and rewarding careers they deserve.

The case challenges laws enacted by the State, and the union leadership chose to join the lawsuit to defend this failing system alongside the State. The lawsuit does not impact collective bargaining rights. We believe the union leadership should listen to real union members and focus on what teachers really want—higher pay, better working conditions, and ultimately, a profession that values and encourages passion, commitment and results. It's time to implement real solutions so teachers who need support can improve, and so we have an effective teacher in every classroom. That's how we prepare the next generation for success in college, career and life.

**18. Why are you scapegoating teachers for all of our educational woes?**

We know the power of amazing teachers to inspire, motivate and change students' lives. The nine students who filed the *Vergara v. California* believe every student, no matter where they come from, deserves great teachers. The goal of *Vergara* is simple: change a failing system in order to protect great teachers and—most importantly—give all students an effective education. Right now, we're protecting seniority rather than passion, hard work, and results. Let's make it clear: we respect and value inspiring, committed teachers. We know this lawsuit cannot address every challenge facing our public schools, but we need to get back to basics, starting with an effective teacher in every classroom.

**19. Isn't this really just an effort to eliminate teacher tenure altogether?**

No, the goal of *Vergara* is simple: change a failing system in order to protect great teachers and—most importantly—give all students an effective education. This case only challenges the current permanent employment law as it's written, which forces administrators to grant teacher permanent employment after only 18 months—before new teachers even complete their beginner teacher programs and before administrators are able to assess whether a teacher will be effective long-term. Our hope for the future is that tenure, if granted, will signify a meaningful career milestone that indicates a level of mastery of the teaching profession.

**20. A teacher's years of experience must be important in the classroom. So why are you trying to remove experience as a factor in evaluating and retaining teachers?**

While experience and institutional knowledge are incredibly valuable, it's common sense that years in the system alone do not guarantee effectiveness. Research also shows that while teachers typically improve a lot in the beginning years of teaching, there is no correlation between effectiveness and seniority after the initial learning curve. There are some very effective newer teachers in the system and some very ineffective teachers who have been around a while.

California's own nonpartisan Legislative Analyst Office studied our school system's layoff process and concluded that basing layoffs on seniority leads "to lower quality of the overall teacher workforce." It's time to reward motivating and inspiring teachers and hold accountable those who are failing our students.