

1 KAMALA D. HARRIS
Attorney General of California
2 SUSAN M. CARSON (SBN 135875)
Supervising Deputy Attorney General
3 NIMROD P. ELIAS (SBN 251634)
CHARLES J. ANTONEN (SBN 221207)
4 Deputy Attorneys General
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5580
6 Fax: (415) 703-5480
E-mail: susan.carson@doj.ca.gov
7 *Attorneys for State Education Defendants*

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Marcellus A. McRae
Marcellus A. McRae

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES
10 CENTRAL JUSTICE CENTER
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13 **BEATRIZ VERGARA, a minor, by Alicia**
Martinez, as her guardian ad litem, et al.,
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15 Plaintiffs,
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17 **STATE OF CALIFORNIA, et al.,**
18 Defendants,
19
20 **CALIFORNIA TEACHERS**
ASSOCIATION, et al.,
21
22 Defendants-Intervenors.

Case No. BC484642

STATE EDUCATION DEFENDANTS'
RESPONSES TO PLAINTIFF
ELIZABETH VERGARA'S FIRST SET
OF REQUESTS FOR ADMISSION

Action Filed: May 14, 2012

Trial Date: January 27, 2014

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24 PROPOUNDING PARTY: PLAINTIFF ELIZABETH VERGARA
25 RESPONDING PARTY: STATE EDUCATION DEFENDANTS
26 SET NO: One
27
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1 Defendants Tom Torlakson, in his official capacity as State Superintendent of Public
2 Instruction, California Department of Education, and State Board of Education respond to
3 plaintiff Elizabeth Vergara's First Set of Requests for Admission as follows:

4 **RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSION, SET ONE**

5 **REQUEST FOR ADMISSION NO. 1:**

6 Admit that there are variations in the EFFECTIVENESS of teachers.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

8 Defendants object to this request for admission on the grounds that the definition of
9 "EFFECTIVENESS" and the citation to *Serrano v. Priest* (1971) 5 Cal.3d 584, 605-606 for this
10 definition calls for a legal conclusion. In fact, teacher "EFFECTIVENESS" was not at issue in
11 *Serrano*, the definition used in this request does not apply to teacher effectiveness and therefore,
12 this request is vague and ambiguous. Despite these objections and without waiving them,
13 defendants admit that as a general proposition and to the extent they understand the request, there
14 are variations in the effectiveness of teachers.

15 **REQUEST FOR ADMISSION NO. 2:**

16 Admit that student ACADEMIC ACHIEVEMENT is more likely to occur when the
17 teacher to whom a student is assigned is EFFECTIVE.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

19 Defendants object to this request as vague and ambiguous as to "academic achievement."
20 Given this objection, defendants do not have sufficient information on which to admit or deny,
21 and on that basis, deny this request for admission.

22 **REQUEST FOR ADMISSION NO. 3:**

23 Admit that some CALIFORNIA SCHOOL DISTRICTS currently employ INEFFECTIVE
24 teachers.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

26 Defendants object to this request on the grounds that the definition provided of
27 "ineffective" as a "teacher with a low degree of EFFECTIVENESS" is vague and ambiguous.
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1 Defendants also object on the grounds that the definition of “EFFECTIVENESS” and the citation
2 to *Serrano v. Priest* (1971) 5 Cal.3d 584, 605-606 for this definition calls for a legal conclusion.
3 In fact, teacher “EFFECTIVENESS” was not at issue in *Serrano*, and therefore, the “definition”
4 given in the Instruction for these requests does not apply to teacher effectiveness and therefore,
5 this request is vague and ambiguous. Despite these objections and without waiving them,
6 defendant admits that some CALIFORNIA SCHOOL DISTRICTS currently employ
7 INEFFECTIVE teachers.

8 **REQUEST FOR ADMISSION NO. 4:**

9 Admit that students are more likely to compete successfully in the economic marketplace
10 when they receive instruction from EFFECTIVE teachers than when they receive instruction from
11 INEFFECTIVE teachers.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

13 Defendants object to this request on the grounds that it is vague and ambiguous, and that
14 they do not have sufficient information to admit or deny, and on those grounds, deny this request
15 for admission.

16 **REQUEST FOR ADMISSION NO. 5:**

17 Admit that students are more likely to participate in the social, cultural, and political
18 activity of our society when they receive instruction from EFFECTIVE teachers than when they
19 receive instruction from INEFFECTIVE teachers.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

21 Defendants object to this request on the grounds that it is vague and ambiguous, and that
22 they do not have sufficient information to admit or deny, and on those grounds, deny this request
23 for admission.

24 **REQUEST FOR ADMISSION NO. 6:**

25 Admit that the PERMANENT EMPLOYMENT STATUTE requires CALIFORNIA
26 SCHOOL DISTRICTS to determine by March 15 of a teacher's second year of probationary
27 employment whether to issue a notice to reelect or not to reelect that probationary teacher as a
28 teacher with PERMANENT EMPLOYMENT.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

2 Defendants object to this request to the extent it applies to school districts with fewer than
3 250 students and to the extent that the applicable collective bargaining agreement may have a
4 provision that differs from the provisions of Education Code section 44929.21. Despite these
5 objections and without waiving them, defendants admit this request.

6 **REQUEST FOR ADMISSION NO. 7:**

7 Admit that the DISMISSAL STATUTES afford teachers with PERMANENT
8 EMPLOYMENT protections against dismissal that are different from the protections against
9 dismissal that are afforded to PERMANENT CLASSIFIED EMPLOYEES.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

11 Admit.

12 **REQUEST FOR ADMISSION NO. 8:**

13 Admit that the DISMISSAL STATUTES afford teachers with PERMANENT
14 EMPLOYMENT protections against dismissal that are not afforded to PERMANENT
15 CLASSIFIED EMPLOYEES.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

17 Admit.

18 **REQUEST FOR ADMISSION NO. 9:**

19 Admit that the percentage of PERMANENT CLASSIFIED EMPLOYEES dismissed from
20 employment by CALIFORNIA SCHOOL DISTRICTS pursuant to California Education Code
21 sections 45113, 45304, 45305, and 45306 is higher than the percentage of teachers with
22 PERMANENT EMPLOYMENT dismissed from employment by CALIFORNIA SCHOOL
23 DISTRICTS pursuant to the DISMISSAL STATUTES.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

25 Defendants object to this request on the grounds that it is vague as to time, vague and
26 ambiguous as to whether it applies to the total number of teachers dismissed by school districts or
27 by individual school districts. Moreover, defendants do not have sufficient information in order
28 to admit or deny, and on that basis, deny this request for admission.

1 **REQUEST FOR ADMISSION NO. 10:**

2 Admit that subsection (b) of the LIFO STATUTE does not permit CALIFORNIA
3 SCHOOL DISTRICTS to make LAYOFF DECISIONS based on teacher EFFECTIVENESS.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

5 Defendants object to this request on the ground that they do not have sufficient
6 information to admit or deny, and on that basis deny this request for admission.

7 **REQUEST FOR ADMISSION NO. 11:**

8 Admit that schools in CALIFORNIA SCHOOL DISTRICTS with higher percentages of
9 low income students more often than not have teachers with less SENIORITY relative to schools
10 in CALIFORNIA SCHOOL DISTRICTS with lower percentages of low-income students.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

12 Defendants object to this request on the ground that they do not have sufficient
13 information to admit or deny, and on that basis deny this request for admission.

14 **REQUEST FOR ADMISSION NO. 12:**

15 Admit that schools in CALIFORNIA SCHOOL DISTRICTS with higher percentages of
16 nonwhite students more often than not have teachers with less SENIORITY relative to schools in
17 CALIFORNIA SCHOOL DISTRICTS with lower percentages of non-white students.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

19 Defendants object to this request on the ground that they do not have sufficient
20 information to admit or deny, and on that basis deny this request for admission.

21 **REQUEST FOR ADMISSION NO. 13:**

22 Admit that schools in CALIFORNIA SCHOOL DISTRICTS with higher percentages of
23 low income students issue PRELIMINARY LAYOFF NOTICES to a higher percentage of their
24 teachers pursuant to the LIFO STATUTE relative to schools in CALIFORNIA SCHOOL
25 DISTRICTS with lower percentages of low-income students.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

27 Defendants object to this request on the ground that they do not have sufficient
28 information to admit or deny, and on that basis deny this request for admission.

1 **REQUEST FOR ADMISSION NO. 14:**

2 Admit that schools in CALIFORNIA SCHOOL DISTRICTS with higher percentages of
3 non-white students issue PRELIMINARY LAYOFF NOTICES to a higher percentage of their
4 teachers pursuant to the LIFO STATUTE relative to schools in CALIFORNIA SCHOOL
5 DISTRICTS with lower percentages of non-white students.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

7 Defendants object to this request on the ground that they do not have sufficient
8 information to admit or deny, and on that basis deny this request for admission.

9 **REQUEST FOR ADMISSION NO. 15:**

10 Admit that teachers at schools in CALIFORNIA SCHOOL DISTRICTS with higher
11 percentages of low-income students are terminated at a higher rate than teachers in
12 CALIFORNIA SCHOOL DISTRICTS with lower percentages of low-income students pursuant
13 to the LIFO STATUTE.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

15 Defendants object to this request on the ground that they do not have sufficient
16 information to admit or deny, and on that basis deny this request for admission.

17 **REQUEST FOR ADMISSION NO. 16:**

18 Admit that teachers at schools in CALIFORNIA SCHOOL DISTRICTS with higher
19 percentages of non-white students are terminated at a higher rate than teachers in
20 CALIFORNIA SCHOOL DISTRICTS with lower percentages of non-white students pursuant to
21 the LIFO STATUTE.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

23 Defendants object to this request on the ground that they do not have sufficient
24 information to admit or deny, and on that basis deny this request for admission.

25 **REQUEST FOR ADMISSION NO. 17:**

26 Admit that student ACADEMIC ACHIEVEMENT is less likely to occur when there is
27 high teacher turnover.

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1 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

2 Defendants object to this request on the ground that they do not have sufficient
3 information to admit or deny, and on that basis deny this request for admission.

4 **REQUEST FOR ADMISSION NO. 18:**

5 Admit that the California Constitution does not require that a decision whether to grant
6 permanent employment to a California public employee be made within eighteen (18) months or
7 less, as provided for in the PERMANENT EMPLOYMENT STATUTE.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

9 Defendants object to this request on the ground that it improperly seeks a legal opinion,
10 that it is vague and ambiguous as to time, and therefore, deny this request.

11 **REQUEST FOR ADMISSION NO. 19:**

12 Admit that the California Constitution does not guarantee permanent employment to a
13 California public employee if the employee's employer fails to notify the employee whether it
14 will grant permanent employment to the employee, as provided for in the PERMANENT
15 EMPLOYMENT STATUTE.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

17 Defendants object to this request on the ground that it improperly seeks a legal opinion,
18 that it is vague and ambiguous as to time, and therefore, deny this request.

19 **REQUEST FOR ADMISSION NO. 20:**

20 Admit that the California Constitution does not guarantee a California public employee
21 with permanent employment the opportunity to correct a dismissal charge prior to her dismissal,
22 as provided for in subsection (b)(1) of the CORRECT AND CURE STATUTE.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

24 Defendants object to this request on the ground that it improperly seeks a legal opinion,
25 that it is vague and ambiguous as to time, and therefore, deny this request.

26 **REQUEST FOR ADMISSION NO. 21:**

27 Admit that the California Constitution does not require that a California public entity
28 initiate dismissal proceedings against a California public employee with permanent employment

1 only during a certain time of the year, if at all, as provided for in subsection (b)(2) of the
2 CORRECT AND CURE STATUTE.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

4 Defendants object to this request on the ground that it improperly seeks a legal opinion,
5 that it is vague and ambiguous as to time, and therefore, deny this request.

6 **REQUEST FOR ADMISSION NO. 22:**

7 Admit that the California Constitution does not guarantee a California public employee
8 with permanent employment the right to obtain discovery during a dismissal proceeding in a
9 manner that is identical to the right of a civil litigant to obtain discovery in an action brought in
10 superior court, as provided for in subsection (a)(1) of the DISMISSAL HEARING STATUTE.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

12 Defendants object to this request on the ground that it improperly seeks a legal opinion,
13 that it is vague and ambiguous as to time, and therefore, deny this request.

14 **REQUEST FOR ADMISSION NO. 23:**

15 Admit that the California Constitution does not prohibit the use in a dismissal proceeding
16 for a California public employee with permanent employment of evidence relating to matters that
17 occurred more than four years prior to the date that a notice of the dismissal proceeding is filed,
18 as provided for in subsection (a)(5) of the DISMISSAL HEARING STATUTE.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

20 Defendants object to this request on the ground that it improperly seeks a legal opinion,
21 that it is vague and ambiguous as to time, and therefore, deny this request.

22 **REQUEST FOR ADMISSION NO. 24:**

23 Admit that the California Constitution does not guarantee a California public employee
24 with permanent employment the opportunity to receive a hearing conducted by a three (3)
25 member commission, as provided for in subsection (b)(1) of the DISMISSAL HEARING
26 STATUTE.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

28 Defendants object to this request on the ground that it improperly seeks a legal opinion,
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1 that it is vague and ambiguous as to time, and therefore, deny this request.

2 **REQUEST FOR ADMISSION NO. 25:**

3 Admit that the California Constitution does not guarantee a California public employee
4 the opportunity to select one or more of the individuals who will decide whether to dismiss the
5 employee, as provided for in subsection (b)(1) of the DISMISSAL HEARING STATUTE.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

7 Defendants object to this request on the ground that it improperly seeks a legal opinion,
8 that it is vague and ambiguous as to time, and therefore, deny this request.

9 **REQUEST FOR ADMISSION NO. 26:**

10 Admit that the California Constitution does not prohibit a California public entity from
11 designating one of its employees as a decision-maker in a dismissal proceeding for a California
12 public employee with permanent employment.

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

14 Defendants object to this request on the ground that it improperly seeks a legal opinion,
15 that it is vague and ambiguous as to time, and therefore, deny this request.

16 **REQUEST FOR ADMISSION NO. 27:**

17 Admit that the California Constitution does not require that a decision-maker in a
18 dismissal proceeding for a California public employee with permanent employment hold a
19 particular employment certification, as provided for in subsection (b)(2) of the DISMISSAL
20 HEARING STATUTE.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

22 Defendants object to this request on the ground that it improperly seeks a legal opinion,
23 that it is vague and ambiguous as to time, and therefore, deny this request.

24 **REQUEST FOR ADMISSION NO. 28:**

25 Admit that the California Constitution does not require a California public entity that
26 initiates a dismissal proceeding against a California public employee with permanent employment
27 to pay the reasonable attorney's fees incurred by the employee if the dismissal proceeding does
28 not result in the dismissal of the employee, as provided for in subsection (e)(2) of the

1 DISMISSAL HEARING STATUTE.

2 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

3 Defendants object to this request on the ground that it improperly seeks a legal opinion,
4 that it is vague and ambiguous as to time, and therefore, deny this request.

5 **REQUEST FOR ADMISSION NO. 29:**

6 Admit that the California Constitution does not require a California public entity to
7 provide a full evidentiary hearing to a California public employee with permanent employment
8 prior to its dismissal of the employee, as provided for in the DISMISSAL HEARING STATUTE.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

10 Defendants object to this request on the ground that it improperly seeks a legal opinion,
11 that it is vague and ambiguous as to time, and therefore, deny this request.

12 **REQUEST FOR ADMISSION NO. 30:**

13 Admit that the California Constitution does not require that a California public entity
14 notify a California public employee with permanent employment about a layoff proceeding only
15 during a certain time of the year, if at all, as provided for in subsection (c) of the LIFO
16 STATUTE.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

18 Defendants object to this request on the ground that it improperly seeks a legal opinion,
19 that it is vague and ambiguous as to time, and therefore, deny this request.

20 **REQUEST FOR ADMISSION NO. 31:**

21 Admit that the California Constitution does not guarantee a California public employee
22 the right to remain employed in the event of layoff proceeding based solely on the amount of time
23 she has been employed by her employer, as provided for in subsection (b)(1) of the LIFO
24 STATUTE.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

26 Defendants object to this request on the ground that it improperly seeks a legal opinion,
27 that it is vague and ambiguous as to time, and therefore, deny this request.

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Dated: September 5, 2013

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California



SUSAN M. CARSON
Supervising Deputy Attorney General
Attorneys for Education Defendants

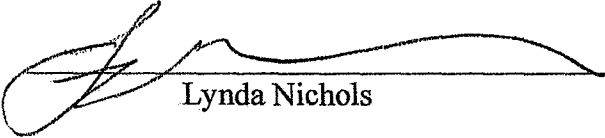
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VERIFICATION

I, Lynda Nichols, Education Programs Consultant in the Title II Leadership Office of the California Department of Education, declare under penalty of perjury under the laws of the State of California that I am informed and believe that the foregoing STATE EDUCATION DEFENDANTS' RESPONSES TO PLAINTIFF ELIZABETH VERGARA'S FIRST SET OF REQUESTS FOR ADMISSION are true and correct based on such information as is available to Defendants Tom Torlakson, in his official capacity as State Superintendent of Public Instruction, California Department of Education, and State Board of Education, which designated me as their agent to respond to the foregoing requests for admissions.

Dated: September 5, 2013


Lynda Nichols

LA2012506839

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Vergara, et. al. v. State of California, et. al.**
No.: **BC484642**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On September 6, 2013, I served the attached **STATE EDUCATION DEFENDANTS' RESPONSES TO PLAINTIFF ELIZABETH VERGARA'S FIRST SET OF REQUESTS FOR ADMISSION** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Marcellus A. McRae, Esq.
Enrique A. Monagas Esq.
Joshua S. Lipshutz
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071

Counsel for Plaintiffs

Rogelio M. Ruiz, Esq.
Mark Isola, Esq.
REHON & ROBERTS, APC
830 The Alameda
San Jose, CA 95126

Counsel for Alum Rock Unified School Dist.

Eileen B. Goldsmith, Esq.
Jonathan Weissglass, Esq.
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108

Counsel for California Teachers Association and
California Federation of Teachers

Sue Ann Salmon-Evans, Esq.
Dannis, Woliver & Kelley
301 East Ocean Boulevard, Suite 1750
Long Beach, CA 90802

Counsel for LAUSD

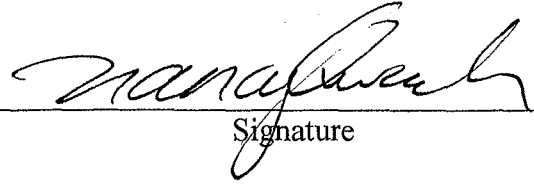
Roy A. Combs, Esq.
Fagen, Friedman & Fulfroost, LLP
70 Washington Street, Suite 205
Oakland, CA 94607

Counsel for Oakland Unified School District

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 6, 2013, at San Francisco, California.

Nancy Quach

Declarant



Signature

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